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ROYAL COMMISSION ON MATTERS OF HEALTH AND SAFETY
ARISING FROM THE USE OF ASBESTOS IN ONTARIO

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Mr. D. Starkman	Asbestos Victims

180 Dundas Street
Toronto, Ontario
Monday,
June 28, 1982
P.M. Session
VOLUME 45 B



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ROYAL COMMISSION ON MATTERS OF HEALTH AND SAFETY

ARISING FROM THE USE OF ASBESTOS IN ONTARIO

VOLUME 45 B

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re Machin, see Volume 45 A)

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THE FURTHER PROCEEDINGS IN THIS INQUIRY
RESUMED PURSUANT TO RECESS

APPEARANCES AS HERETOFORE NOTED

DR. DUPRE: May we come to order. Our witness
is Mr. Eugene Girdouskas, and may I, Mr. Girdouskas, thank you
for your patience in that we are running at the moment sixty-five
minutes behind our appointed time.

May I ask you, Mr. Laskin, to swear in the witness?

MR. LASKIN: By all means.

EUGENE GIRDOUSKAS, SWORN

MR. LASKIN: Mr. Chairman, Mr. McCombie was going
to lead Mr. Girdouskas through his evidence.

MR. McCOMBIE: Thank you, Mr. Laskin.

Thank you, Mr. Chairman, and welcome Mr. Girdouskas.
This Commission has heard from a great many expert witnesses
from various fields in biology, epidemiology, research, etc., so
I'm quite happy that you are appearing here and give the
Commission the benefit of the evidence from what I might call
the front-line troops in this whole issue.

EXAMINATION-IN-CHIEF BY MR. McCOMBIE

5 Q. Maybe we could just begin by you indicating to the Commission what exactly your job with Ontario Hydro is, and how long you have worked there?

A. I am a mechanical maintenance fitter, or shift maintainer as they call it, and I have been with Ontario Hydro for six years.

10 Q. Has that entire time been spent at the Hearne Generating Station?

A. Yes, it has.

Q. Okay.

Now, I understand that before we get started you have an opening statement to make?

15 A. Yes, I do. I have prepared...I don't know how brief, but it's an opening statement.

20 First of all, I would like to say that by no means as defined in the other witnesses that you have had here, I am no expert under any of the definitions. I am not technically knowledgeable in the field of biology or physiology. The only expertise that I might have is the fact that I do work in a location that is abundantly laden with asbestos, and perhaps I'm not an expert but a connoisseur, since I, as well as all the other workers that I represent, consume either through ingestion or inhalation asbestos fibers in the workplace.

25 As was clearly shown on June 15th, when Mr. Bob Wilson, director of the health and safety division of Ontario Hydro, testified before this Commission, Ontario Hydro employs numerous experts in the field of health and safety. These experts develop policies and procedures relating to specific situations - for example, in this situation, asbestos - and forward these policies and procedures through their director to various vice-
30 presidents and directors of other divisions.

5 THE WITNESS: (cont'd.) These procedures are known as level two procedures, and when they become procedure, they are handed down from upper management to middle management for implementation. I think Mr. Wilson gave us a good idea of how that all worked.

10 Referring to the Ontario Hydro procedure presented in front of this Commission on the 15th of June, I would like to read or quote part of it regarding the scope of procedures and the very introduction. It says under Scope of Procedures:

"These procedures will be applicable to all divisions that are responsible and accountable for specifying, purchasing, using or disposing of materials which contain asbestos".

15 And on the following page there is a strategy for implementation, which goes on to say:

20 "Each division involved is responsible for the institution and administration of the procedures listed below. Health and safety division will provide assistance and services for efficiency and quality control. When deemed appropriate, health and safety division will assess the effectiveness of the program on behalf of the corporation".

25 This second part of the introduction, the strategy for implementation, the way we look at it from the union standpoint, and of course it's a biased approach, I guess, we look at it as a rewritten or paraphrased managerial rights clause as found in our collective agreement.

30 There is no mention of the union or worker involvement in any strategy for implementation, and as was clearly demonstrated by Mr. Wilson, the health and safety committee or the workers may

THE WITNESS: (cont'd.) or may not be involved in the implementation of this procedure, but definitely will not be involved in the formation of it.

Furthermore, Mr. Wilson expressed a mild displeasure that active union members were becoming involved in the activity of the health and safety committees throughout Ontario Hydro.

Clearly, Mr. Wilson views the administration of health and safety in Ontario Hydro as strictly a managerial function. It is therefore appropriate and appreciated that we follow Mr. Wilson in our appearance before this Commission, and since we have no administrative or managerial rights in Ontario Hydro's view, and also under present legislation in the Occupational Health and Safety Act, that we assume the traditional so-called reactive role of the workers, the union.

Here is our reaction to comments made by Mr. Wilson: Regarding level two procedures. First of all, on paper, as exemplified in this quite large folder, these level two procedures seem to be very idealistic with their flow charts and various approaches to solving problems. Nevertheless, they are, in our view, full of shortcomings.

Firstly, I would like to turn to the definition of an asbestos worker, in the Ontario Hydro draft procedure...

MR. McCOMBIE: Q. Excuse me, Mr. Girdouskas. Maybe we could, just for the benefit of everyone else, identify what you are referring to, which I believe is tab seven of the...

THE WITNESS: A. Yes. Tab seven of the Ontario Hydro health and safety division compendium of articles.

MR. LASKIN: Tab seven of the articles presented by Mr. Wilson when he testified?

THE WITNESS: Yes.

As defined in this tab seven, or the draft proposal for procedure, an asbestos worker is "any person who performs work

THE WITNESS: (cont'd.) "on asbestos material for more than one hundred hours during a calendar year, or with an exposure concentration times time of forty fiber hours per milliliter of air", is defined by Ontario Hydro as an asbestos worker.

We find this definition to be very restrictive. We believe that at the R.L. Hearne Generating Station, all workers should be considered asbestos workers due to the condition of the insulation everywhere in the plant, and due to the nature of the air circulation throughout the plant.

For example, when units are running, for example in the winter time, there could be a fifty degree differential... fifty degree Fahrenheit differential, between the ground floor and the uppermost floor in the plant, and because the insulation is in such poor condition - it's falling off and breaking apart everywhere - because of the tremendous convection currents caused by such a differential in temperature from the ground floor to the top floor, and essentially the plant is wide open, it doesn't have any floors or barriers that would prevent air from moving from the ground floor to the top floor...the only flooring is steel grating which is completely open, like you can see right through it...the contamination in the air would be spread throughout the plant.

Now, as far as the company argument, the company will support this narrow definition of an asbestos worker, this hundred-hour definition, by emphasizing the periodic air monitoring has shown fiber concentrations in ambient air at levels well below the so-called acceptable limits.

Since air sampling is performed by Ontario Hydro and analyzed in an Ontario Hydro laboratory, the workers have very little input into how, when and where the air sampling is performed.

5 THE WITNESS: (cont'd.) The workers have no input whatever as to the method of sampling and analysis. Even without the technical expertise required to understand the techniques of sampling and analysis, certain questions do arise.

For example, how do they analyze concentrations as low as a few hundredths of a fiber per milliliter using the membrane filter and optical microscope, which is what they use, the method that Mr. Wilson confirmed.

10 Secondly, why are the air samples analyzed at such a consistent, uniform and always below the acceptable level, no matter where these samples are taken?

15 We found that anytime...lately they have been posting air sample results, and they have always fallen within point one decimal point, or point zero one decimal point of each other, so therefore there seems to be a very, almost incredible uniformity in these readings.

20 Thirdly, why when insulation work is being performed, and one looks into the light - which is a very lay approach - one can see that the air is filled with minute particles of floating debris of some sort or other - we would assume most likely asbestos?

Why, when a tradesman returns from lunch, is the lid of his toolbox covered by a film of fine dust?

25 Those are some of the questions that we often ask and technically, I guess, we don't have the understanding to... our nostrils aren't made to distinguish between asbestos or other dust, but knowing the concentrations of asbestos in the plant it would seem that it's a good assumption that most of it is asbestos.

30 There seems to be a convenient contradiction in the level two procedure presented by Mr. Wilson with respect to asbestos exposure and health risk associated with exposure.

5 THE WITNESS: (cont'd.) On page two, Roman numerals two dash six of this lengthy procedure, or tab seven, subsection two point four seems to state that any exposure is a hazard, or that exposure can't be measured accurately enough.

10 Then it further goes on to say in the same procedure on page, Roman numerals three dash four, subsection three point four, "There is an ingenious hazard rating index developed", and this hazard index rating seems to have many variables which would make the worker, according to the index, even if he was exposed to amounts of asbestos, as long as they weren't for a long enough period of time or not such high concentrations, it would be an acceptable value.

15 Our only comment, and I'm speaking on behalf of our union, is that because of the extremely long latency periods involved for the manifestation of certain fibroses, and even longer for mesotheliomas, we would not entrust Ontario Hydro to monitor our breathing air for thirty years and accept their assurance that our intake of asbestos was well below the acceptable limit and that we have little chance of contracting asbestosis or mesothelioma, which brings to mind our latest Workmen's Compensation Board claim refusal.

20 In the report from the Compensation Board under Occupational History, I guess the information provided by the company under work history it says: "Occasional, insignificant exposure to asbestos".

25 We maintain from different studies that we have read, and we concur with those studies, the only safe level of exposure is no exposure at all.

30 Mr. Wilson further went on to make a cute analogy of two procedures under his control, under the control of the health and safety division of Ontario Hydro.

One was the radiation protection procedure at

THE WITNESS: (cont'd.) Ontario Hydro's nuclear division, and the second was the asbestos control procedure.

5 He likened the radiation protection procedure to a smooth-running new Cadillac, an example to the industry. He admitted, on the other hand, that Ontario Hydro did not have a proper handle on the asbestos situation and likened this program to an old, broken-down Chevrolet.

10 The biggest question that immediately comes to mind is why. Asbestos was used in Ontario Hydro long before uranium. The hazards of asbestos have been known since the early nineteen-hundreds.

15 Britain, incidentally, where Ontario Hydro draws much of its technical expertise, has had a fairly strict regulation on asbestos since 1969. Why has it taken so long for Ontario Hydro to implement a procedure for asbetos?

Even now, as was mentioned by Mr. Wilson, this procedure is just in draft form, and I would suspect that Mr. Wilson's invitation to this Royal Commission may have had some influence to its hasty development.

20 Surely Ontario Hydro would not deal with radiation exposure in such a sloppy manner.

25 Finally, I would like to comment on the realities of these so-called level two procedures. Mr. Wilson has admitted that there were problems with asbestos. In presenting his testimony before this Commission, he showed concern about the asbestos situation and presented this new and improved procedure for dealing with the problem.

In essence, Mr. Wilson came before you and said, 'we slipped up a little, but this is the way it's going to be from now on'.

30 I am here before you, on the other hand, not to say how it's going to be - we have already established that that's

THE WITNESS: (cont'd.) a managerial function,
but how it has been and how it is.

Incidentally, we have always had a procedure dealing with asbestos - at least since 1972, no better or worse than the present draft level two procedure we all know about now. However, one small flaw in this 1972 procedure - nobody...by nobody I mean none of the workers...nobody was ever told about it.

I would like to take this opportunity to quote our union's submission to the Royal Commission, to shed further light on this intrigue, and that's on page fourteen of the Canadian Union of Operating Engineers brief to the Royal Commission.

Under The Company, page fourteen, second paragraph:

"On June 4th, 1980, a Ministry of Labour health and safety inspector made a routine inspection of the R.L. Hearne. His report was posted on one of the notice boards at the plant. Concluding his report, the inspector stated that he was given by management an Ontario Hydro directive, a copy of which he was attaching to his report."

These are the standard inspector reports that are posted on the notice boards.

"The directive dealt with handling, removal and housekeeping needed due to asbestos in the workplace. This directive was never posted. Questions arose as to its whereabouts, and these questions were officially channelled to management by the union representative at a joint health and safety committee meeting September 11, 1980. Management answered that there was no standard procedure dealing with asbestos, but that each

THE WITNESS: (cont'd.) "station was responsible for its own procedure...a procedure was being developed and would be posted shortly.

This procedure, as found in appendix five of this brief, was posted later the same month, September, 1980.

At the following joint health and safety committee meeting, after considerable pressure from the union, management brought forward the Ontario Hydro directive shown in appendix six of this brief, referred to by the Ministry of Labour inspector in his report.

Management's position now was that the directive outlining standard procedures for dealing with asbestos had existed and was in force since 1972. In fact, in his report of June 1980, as found in appendix two, in the Workmen's Compensation Board's summary of information under part six, the company physician makes an indirect reference to this directive, stating that 'asbestos work procedures began to change in the early seventies at Ontario Hydro, to minimize exposure'.

Obviously there were standard procedures dealing with asbestos, and the company was informing agencies such as the Workmen's Compensation Board and the Ministry of Labour that these procedures were currently being used.

Unfortunately, though, the workers that were doing the actual handling of the asbestos and were receiving their daily doses of exposure, as Doug Ray in appendix two, Workmen's Compensation Board summary of information, part twelve, report of the chief pathologist: 'sixteen thousand, five

THE WITNESS: (cont'd.) " ' hundred fibers in a five-gram tissue sample of lung', were unaware of any such procedures.

After the initial reference to a standard procedure in the Ministry of Labour's inspector's report, June 4th, 1980, and prior to the release of the directive in late October, 1980, dozens upon dozens of Comfo Two type respirator masks, with the appropriate filter cartridges, appeared as stock items in the storage department at the plant.

These respirators were approved and considered safe in atmospheres of high asbestos dust concentration. After the release of the directive, management changed their position and now maintained that a procedure dealing with the handling of asbestos did exist and that appropriate protection was available to the employees since the mid-seventies. The union could not accept this management position, and conducted a survey of all persons in the mechanical maintenance department.

This is found in appendix seven of this brief. The results of this survey conclusively show that the workers were not informed of any procedure on the handling of asbestos, and that proper respiratory protection was not provided.

Even though a procedure now does exist, and has existed since September, 1980, dealing with the handling of asbestos at R.L. Hearne Generating Station, it is very poorly enforced.

On large projects where outside contractors are employed to perform such work as steam pipe lagging

THE WITNESS: (cont'd.) "or boiler retubing, the shop stewards constantly have to remind management that rules are being broken and disobeyed or ignored, and procedures are not being enforced."

So much for the quote. I don't want to read the whole brief.

Going back to Mr. Wilson's testimony on June 15th, as was clear from Mr. Wilson's testimony before this Commission, Ontario Hydro is no longer trying to avoid the asbestos issue, at least at level two they are not.

However, it's a long way down from level two to the basement of the R.L. Hearne. The attitude at lower levels of management are firmly set and slow to change. Only as recently as May 6th, 1982, there was a work refusal by a group of men working inside number eight boiler. The men complained about the dirty conditions inside the boiler, and offered to clean the work area before proceeding with further maintenance work.

The argument management used was that this is the way this job was always done and that if anything, the area was cleaner now than it ever was.

The men disagreed, and the inspector was called in. In a typical nondecision, the Ministry of Labour inspector arrived at a solution whereby management agreed to adopt a proposal for cleaning the area, which proposal was presented by the workers the previous day.

Only a week after this formal work refusal, another group of men working in a steam drum, which is a very confined tank, approached their foreman and reminded him that the ventilation in the drum was less than adequate.

Since they were only doing grinding work, they conceded that the ventilation would have to do, but in one week's time they would be doing welding work and they requested that the

THE WITNESS: (cont'd.) foreman buy seventy-five feet of six-inch flexible hose, so that they could modify the air circulation system they had set up.

When welding work was to commence, the hose had not arrived. The following day the hose came in, but only twenty-five feet.

The foreman said he only bought twenty-five feet because it was eight dollars and forty-six cents a foot.

The men refused to work and went about the plant looking for bits and pieces of assorted plastic pipe, so that they could make up an adequate air supply system for their job.

It is this type of lower level management attitude that makes shambles of level two procedures, and unfortunately these level two procedures might seem very idealistic and very well worked out, but by the time they get down to the basement of the Hearne, or other plants, they don't seem to quite make it that way.

On behalf of the workers at Richard L. Hearne Generating Station, I would like to thank the Royal Commission for allowing us to air our views, and God only help those workers that are nonunionized and do not work for a modern and progressive company such as the one we work for, Ontario Hydro.

Thank you.

MR. McCOMBIE: Thank you.

Q. Okay, I just have several general questions to get us going here.

You are currently a member of the joint occupational health and safety committee at the Hearne, is that correct?

THE WITNESS: A. Yes, I am. I am a mechanical rep on the committee.

Q. So the committee is made up of people from different sections of the plant?

5 A. Yes. We have people from the electrical department, the mechanical maintenance department, the chemical department...all the major departments.

Q. Would there be a representative from both management and labour from each of those departments?

10 A. No. In fact we do have...the union has management outnumbered on the committee right now. I think there are five members of the union and three members of management on the committee.

Q. How many workers are we dealing with here at the Hearne?

A. Approximately one hundred and thirty unionized workers, belonging to the Canadian Union of Operating Engineers.

15 Q. Would there be other hourly-paid employees at the plant?

A. The office staff is unionized. They work for the Ontario Hydro Employees Union.

There would be a total of nearly two hundred workers at the plant.

20 Q. Has that been fairly consistent over the years, or is this more or less workers than there have been?

A. No, it's consirerably less. They have destaffed the station. Presently there are only three units out of the eight running, so I would imagine there was a total of about four hundred employees at one time.

25 Q. That would be four hundred within your local?

A. Pretty close to it, yes.

30 Q. Okay. Now, you touched on it briefly in your opening presentation, but I think maybe for the benefit of the Commission, if you could very briefly give an idea of the size of Hearne, and the layout.

You indicated there were seven stories, I believe,

Q. (cont'd.) and fairly open?

5 A. Yes. There are seven buttons on the elevator, anyway.

Q. How large a space would this be?

A. It's hard to...

Q. Just roughly.

A. I would say probably an eighth of a mile long, by a couple of hundred yards wide.

10 Q. And this entire structure would be open? I mean, you could see from one end to the other?

A. On the ground floor and on the third floor, if you could see that far...there are obstructions in the way, but in fact yes, it is open from one end to the other, one side to the other side.

15 Q. But there's no walls or partitions, or...?

A. There are offices. There is a building on one end which houses offices, but the plant itself is virtually wide open from top to bottom, side to side, end to end.

20 Q. Okay. When exactly did you start at the Hearne station?

A. August 3rd, 1976.

Q. When you started there, was this an apprenticeship program that you started?

A. Yes. Yes.

25 Q. So presumably you received a great amount of training in your particular skill?

A. Four years of training, yes.

Q. In that training, what instructions did you receive on the handling of asbestos?

A. No training.

30 Q. There was no instructions at all in the apprenticeship program as to the hazards, potential hazards of dealing with asbestos?

A. Never.

5 Q. So when exactly was it, and by what means, that you first found out that there was a potential health hazard in your job?

10 A. I think the first actual knowledge became apparent when some of the workers began getting sick. One of the workers, in 1980, March, 1980, I believe it was, had a collapsed lung, and from then on we found out it was asbestos that caused the lung problem.

Prior to that, there were suspicions that there might have been some asbestos in the plant. Nobody really knew how much or where it was. People didn't really know how it looked.

15 Q. And there was never any training by management as to recognition of and safety procedures to take?

A. Not since...

Q. Prior to March, 1980?

A. Up to 1980? No. No, there wasn't.

20 Q. So this would...you have indicated that you were present for Mr. Wilson's testimony, and Mr. Wilson also testified that Hydro became aware of the problem with asbestos in 1968, from 1968 on, but management at the Hearne between 1968 and 1980 never made it known to anyone there?

25 A. We did discover this directive that I referred to in my opening statement. That was discovered in October, 1980. It was officially handed over to the health and safety committee by management. The directive was dated back to 1972, and revised again in 1975.

However, the workers were never informed of this directive until October, 1980.

30 DR. UFFEN: Could I ask a little supplementary here?

MR. McCOMBIE: Sure.

DR. UFFEN: I haven't got all that good a memory, but I believe that the plant was closed down for awhile. Was the Hearne plant ever closed down?

THE WITNESS: Not to my...

DR. UFFEN: Was it in continuous operation all that time?

THE WITNESS: Yes, as far as I know.

The J.C. Keith plant, which is in Windsor, was closed down for a matter of two years, I think. That's the Windsor plant. It was closed down and...

DR. UFFEN: This one has been going all the time?

THE WITNESS: For what I can...well, I have only worked there for six years, but I haven't heard of any closing. We have had a reduction, like I said. There are eight generating units in the plant, we are only operating three.

DR. UFFEN: All I was trying to establish, and you have done so, was that the plant wasn't closed from 1972 to 1976, or anything like that.

THE WITNESS: No.

MR. McCOMBIE: Q. Was the Hearne station one of the companies that was visited by the mobile x-ray unit of the occupational chest disease section of the Ministry of Labour?

THE WITNESS: A. I believe it was. I was never involved in that program, but I believe other people in the same department that I worked in were.

Q. So other members of your local would have been involved in that, but you yourself weren't?

A. No, I was not.

Q. From discussing it with your fellow workers, when this x-ray unit would come around, was it ever explained, prior to 1980, what the purpose of this program was?

A. No. I asked certain questions myself as to

A. (cont'd.) why I wasn't involved in the monitoring or the x-raying, and I was never given any satisfactory explanation.

5 One time they said that they were picking people at random to check for lung problems, and then I think it became apparent later on that they were screening people that they seemed to think worked with asbestos more than other people did.

Q. They indicated that to you when they did the...or to the people that they were x-raying, when they did the x-rays?

10 A. I don't know. I never asked that question of anybody that was being x-rayed.

Q. I notice that in...you have referred in several places to the Hydro submission at tab seven, and I notice on Roman numeral three dash nine it indicates that a monitoring program, quote: "All workers will be advised of their individual test results".

15 Are workers at the Hearne currently being advised of their test results?

A. I believe currently they are being advised. I don't think in the past they were, because we know of people that have had problems for four years. The company has known about, or the occupational chest department has known about certain developments on the lungs four years prior to notifying the employees that there is an abnormality.

20 I don't know whose fault that is. If it's just a mixup in the bureaucracy of the health department, or...I can't really say.

25 Q. But the workers are now being informed of the results?

A. To my knowledge, they are. Yes.

30 Q. This would be for how long, has this been the case, roughly? You indicated that previously they weren't notified, and now they are. Is there some sort of date that we

Q. (cont'd.) can establish where this policy...

5 A. I would say just until late last year. One
worker found out that he had an abnormality on his lungs, which
has since then been submitted as a claim, and he was told by the
company doctor that the occupational chest diseases clinic had
been following the progress of this abnormality for four years
prior to telling...prior to the company doctor telling him that
10 he did in fact have an abnormality in his lungs.

DR. UFFEN: Excuse me. Did the company doctor
know this for four years, or was he ignorant of it, too?

15 THE WITNESS: To the best of my knowledge, I would
say the company doctor was probably ignorant of it, too, since
the company doctor involved was...I don't believe he has worked
there more than four years, that particular doctor anyway.

MR. McCOMBIE: Q. You referred in your opening
statement to the hazard rating index in Hydro's submission and
it has been a topic of some discussion in the Commission.

20 Had you, prior to Mr. Wilson's appearance, had
you, or to the best of your knowledge, anyone else in the local
ever heard of this hazard rating index and what exactly it was?

THE WITNESS: A. No, not really. I've seen other
formulas, like time-weighted averages and threshold levels, but
this is quite ingenious, the way they've worked that.

25 Q. So that management didn't come to you and
say, we have a new way of measuring...

A. No, they did not.

Q. ...a new way of monitoring.

So the first time you heard about it was on June 15th?

A. Yes.

Q. Is that correct.

30 A. That is the first time, and that is the first

A. (cont'd.) time I learned of their level two procedure draft.

5 Q. Okay. I would like to turn briefly to the survey that is appendix seven of your submission to the Royal Commission, which is...I found quite interesting.

I am wondering if the results of this survey were ever made known to management. Was this survey officially submitted to management by the union?

10 A. Yes, it was. It was submitted by myself, and the other person involved in the preparation of the survey, who is now the president of local 110.

It was submitted at a health and safety committee meeting. I really don't recall when. I think it was about a year ago, anyway.

15 Q. So this was submitted to management. Did they have any response to this survey? I mean, did they come back to you with any explanation of what appears to be a vast majority of the workers not being aware of any particular problem in asbestos, or the workers surveyed didn't seem to be aware of any problem with asbestos prior to 1980? Did they give any explanation of that, or any other response to this survey?

20 A. Well, the way we presented this survey was, we read it out during the health and safety committee meeting where the station manager was present, and the station manager, incidentally, is not a member of the health and safety committee, but he was invited to be present, as were we. We were not members of the health and safety committee at the time.

25 We read out the survey and the summary of the survey and the recommendations attached to the last page of the survey.

30 They did not seem to be very receptive to our recommendations, and to the fact that we went out and did the

5 A. (cont'd.) survey. They said they would get back to us, or the station manager said he would get back to us regarding the request for removal of asbestos from the plant.

Aside from that, other comments were made casually, but nothing official was...there were no official comments made.

10 Q. So they said they would respond to the, I guess it's recommendation number three, that Hydro be asked to provide a safe working environment by working all asbestos from the premises, but you have yet to receive an official response from management on that?

15 A. Yes, we did receive...I asked...since now I am a member of the health and safety committee, I did ask early this year, early 1982, I did ask again what progress had been on our request for removal of asbestos from the plant, and I was told by the production manager, who is on the committee, that it would be unfeasible to remove the asbestos, but that they would carry on a program of encapsulating it.

20 DR. UFFEN: Could I intrude again here, just for clarity?

25 We are referring to management sometimes, and of course in conversation we also say 'they', and then I heard you use the expression 'plant manager'. Could you tie down just a little bit clearer, when you talk about management just who is involved?

For example, does it go beyond the plant manager of this R.L. Hearne plant?

THE WITNESS: Yes. Does it go beyond the plant manager? You mean the control of the station, the administration...?

DR. UFFEN: When you are referring to such things as you got or didn't get a response from management...

30 THE WITNESS: We were dealing with local station management at the time.

DR. UFFEN: The station manager?

THE WITNESS: Yes.

DR. UFFEN: That's one. Who else?

THE WITNESS: All supervisory levels above the bargaining unit are considered management. The foremen are management...

DR. UFFEN: The foremen up?

THE WITNESS: From the foremen up, yes.

DR. UFFEN: To the plant manager, at times.

THE WITNESS: Yes.

DR. UFFEN: Did you ever get any response, or did you ever try to get beyond the plant manager to see whether he is the stumbling block?

THE WITNESS: Well, I think we have done that now, being present here. We never tried it in any other way, no. No.

DR. UFFEN: Is that because the safety committees operate within the plant?

THE WITNESS: Yes, yes.

DR. UFFEN: And that's your proper...

THE WITNESS: That is the proper procedure, yes.

DR. UFFEN: ...within the plant. Fine.

DR. DUPRE: When you have been using the term management, have you sometimes been using that to refer to the three management members who are on the joint health and safety committee?

THE WITNESS: Yes, I guess so.

DR. DUPRE: And your perception of these three management members of the joint health and safety committee is that they are instructed directly by the plant manager, is that your perception?

THE WITNESS: Yes. In fact, the plant manager has taken responsibility for any actions of his subordinates. He has

THE WITNESS: (cont'd.) told us that before.

Incidentally, these members of management on the health and safety committee have changed since we began this whole issue. They are different people right now, as they were when we started the survey.

DR. DUPRE: Please proceed, Mr. McCombie.

MR. MCCOMBIE: Q. You say that the three management representatives have changed in recent times?

THE WITNESS: A. The production manager has changed, and the chemical supervisor has changed. Those two people are management people on the committee.

I am not sure about the third person, which is an operating chief. I think he is the same person.

Q. Could I ask, just out of curiosity, whether... and I realize this is only your own perception...would these new people on the committee, new management representatives on the committee, would you see them as having more authority than the old people did? I mean, would they be higher up in the chain?

A. No, no. They are at the same level of management, and in fact I think if anything, I think that the present people might be more receptive to our requests and recommendations...although we have had problems communicating and getting our views across, but I think if anything they are milder than the previous people.

Q. So they would be more receptive to the ideas put forward by the worker representatives?

A. Perhaps, but as you well know...

Q. At that level, anyway?

A. ...under the Occupational Health and Safety Act, the only things that we can do are recommend to management. They can be as receptive or nonreceptive as they would like. Perhaps they are more diplomatic, that's all.

5 Q. Okay. I would like to turn briefly to the Ministry of Labour and their periodic inspections that would be carried out.

Now, you have indicated, I guess, a cutoff date of 1980, before which there was, you have indicated, there was very little knowledge of the problem of asbestos.

10 I am wondering if in inspections that were carried out by the Ministry of Labour prior to that time whether the inspector ever raised the problem that there may be a potential hazard with the asbestos. Was this ever included in any of his reports prior to 1980?

15 A. To my knowledge, no. No. I haven't had that much time on the health and safety committee, and I've been active in the union for a couple of years, but to my knowledge prior to 1980, the issue of asbestos was never delved into.

Q. Do you know if the Ministry of Labour inspectors took air samples prior to 1980?

20 A. I don't even think they have taken them since 1980. The information I have is that Ontario Hydro conducts air monitoring and they forward the results of the air sampling tests and the analysis to the Ministry of Labour on request.

I have never seen or known of the Ministry of Labour doing air sampling or analysis.

25 Q. So Hydro would do its own air sampling, to the best of your knowledge?

A. To the best of my knowledge, yes.

Q. When such sampling was done, was the union...or the union itself or the health and safety committee, were they informed of the results of these samples?

30 A. Since 1980, I think yes. Prior to that, I don't know. I don't think so.

Q. So you would get a copy? Currently you would

Q. (cont'd.) now get a copy of the report from, presumably, industrial hygienists from the Hydro?

5 A. Usually the results are posted on the bulletin board, so then I believe the health and safety chairman, of the health and safety committee, would get a copy of it. Yes.

Q. Just out of curiosity, would they get it directly from, presumably the people that would be doing this wouldn't be plant people, but would be from head office at Hydro?

10 A. There is a division within the health and safety division that does those kind of things. I don't know where they come from. I think they come from Pickering.

Q. Okay. Well, what I'm trying to get at. I'm wondering whether or not the results would come directly from those people, or whether they would come through the station manager?

15 A. No, they come down from the station manager. They don't come...you mean from that monitoring agency, whatever it is, within Ontario Hydro, to the health and safety committee?

Q. That's correct.

20 A. No.

Q. Is that the case?

A. No.

Q. It's not the case. So it would be filtered down through the station manager?

A. Yes.

25 Q. Under current conditions is someone from the health and safety committee, or from the union, aware when a particular day has been selected for sampling, and are you involved with the sampling in any way?

30 A. Lately, yes. Although we did have a problem. There was a big stripping job, of asbestos, on a boiler, being performed late last year, in the wintertime.

5 A. (cont'd.) According to the procedure that air already had, the new procedure that they had posted in 1980, air sampling was to be conducted during the actual removal, and as I mentioned in my opening statement, we have had tremendous problems enforcing this procedure.

10 I actually had to go to the station manager and tell him that the air monitoring was not being done, as was outlined in their procedure, and I asked that air monitoring be started.

Well, the air monitoring was started the following day, but the majority of the work of the stripping operation had been completed the night before.

15 The health and safety committee chairman was approached when the air monitoring guys did come in, and he went around with the technicians and they both agreed on a location for the air monitoring pump, or whatever it's called.

DR. UFFEN: By the way, how is the chairman chosen? Is he elected from among the members, or appointed by somebody?

20 THE WITNESS: He is appointed by the union executives.

DR. UFFEN: By the union executives?

THE WITNESS: Yes. As are all the other members.

DR. UFFEN: Does that mean...

25 THE WITNESS: Hold on. Maybe I made a mistake, because I've got the president of the union sitting there. Maybe Jim Schetakakis...

MR. SCHETAKIS: The chairman is elected by the committee members. They choose their own chairman.

DR. UFFEN: Including the management members?

MR. SCHETAKIS: Correct. The committee gets together and chooses their chairman.

30 MR. McCOMBIE: The committee gets together and chooses their chairman.

MR. McCOMBIE: Q. Now, you have referred several times to 1980 as being, seeming to be an operative date, and I think you referred in your opening statement to a particular inspection that was done at that time, on June 4th, I believe.

I just wonder if I could have the indulgence of the committee. We have a copy of that inspection report and maybe I would like to pass it out to you.

DR. DUPRE: Is this to have an exhibit number, counsel?

MR. LASKIN: Are you filing this?

MR. McCOMBIE: Sure.

MISS KAHN: Seventy-two.

DR. DUPRE: Seventy-two.

EXHIBIT # 72: The abovementioned document was then produced and marked.

MR. McCOMBIE: Q. Now, I gather, if I can put it this way, it was essentially this report that tipped off the workers that there was an asbestos problem. Would that be fair to say?

THE WITNESS: A. Well, it tipped off the workers that there was a procedure within the company on how to deal with asbestos and the hazards in handling asbestos, because at the very end of this posting, on the second page here, it says:

"Attached to this report is a directive written in 1975, as to the handling, removal and housekeeping needed due to asbestos in the workplace".

This whole report was posted on the bulletin board, as is required by law, I would imagine. But this directive that was referred to in the report was not posted, and yes, I would imagine that is what started the ball rolling...aside from the

A. (cont'd.) fact that Mr. Douglas Ray had been under surgery for a condition caused by asbestos, in March, 1980.

5 Q. I also note in the paragraph above the one you just read, it states that, quote:

"All asbestos-covered pipes and equipment will be completely repaired and contained by the end of 1980", which would have been six months from the date of this report.

10 To the best of your knowledge, was that done?

A. No, it hasn't been done yet.

Q. So that would still be outstanding, the repair and recovering?

A. Yes.

15 DR. UFFEN: Could we just get a little bit precise about that for a minute? You used the expression 'repaired and contained'?

THE WITNESS: That's right, repaired and contained.

DR. UFFEN: Not removed. So there is no misunderstanding about contained?

20 Let me put it this way: Did you visualize that they were going to remove all the asbestos, or did you visualize that some of it would be contained?

25 THE WITNESS: Prior to this report, or even after this report, we only then conducted the survey and asked management to remove all asbestos. This came from their people, or upper management people in the station stated that this would be contained. I would imagine they had already decided that that was the course they were going to follow, was to repair, as is the case now. They only remove asbestos where it is impossible to repair it. Otherwise, they cover it, or they are trying to cover it.

30 There is an attempt being made at the present moment to repair, but we are far from finished.

5 MR. McCOMBIE: Q. So the repair and containment program, leaving aside for the moment the question of removal, but the repair and the containment program, as you understand, is still proceeding at this date?

10 THE WITNESS: A. Yes, it is proceeding. There was a break in the repair of it for awhile. We found out during one of the crew safety meetings...it's not a joint health and safety committee meeting, but each work crew has safety meetings each month...and the members of the crew get into a classroom and we discuss matters of health and safety as relating to the workplace.

15 At one of these meetings the mechanical superintendent was present, and a question was raised as to why the repair work that was going on...it seemed not so well, but it was going on...had all of a sudden stopped.

He mentioned that the insulation budget had been exhausted for that year and that they wouldn't be continuing the work until the following year.

20 Then after that, about three or four months later, they did resume repairing the broken insulation and they are carrying on with it right now.

25 Q. Sorry, what would the time period be for this? This is also what, I gather, is referred to in your brief on pages seventeen and eighteen, talking about the Dewars Insulation contractors. I gather that was the first group that came in?

A. Yes, they were involved in repairing the insulation, and then all of a sudden the work stopped and Dewars were no longer on site.

30 Q. Could you give us an idea of when, roughly, that would have been?

A. To be honest, I can't really remember when the...I would say mid-1981.

Q. Mid-1981?

5 A. Mid-1981. The work seemed to stop, and then just prior to Christmastime, I think, it began again, and a new contractor had assumed the job.

Q. Is there presently a contractor there doing removal or containment?

10 A. Yes, there is. But I think it's a total of about five men, working steady.

Q. To the best of your knowledge, and I realize that you, in your opening statement, didn't claim to be an expert in the academic sense, but to the best of your knowledge does it seem like the procedures that are outlined in appendix six of your brief, which is a Hydro directive on removal of asbestos, does it seem that those procedures are being carried out by either Dewars or the subsequent contractor doing the removal, as far as roping off and signs and things of that nature?

15 A. Actually, the procedure that all contractors are given when they come on site, or we are told that they are given this procedure, is in appendix five, which is the procedure as applied to the R.L. Hearne.

20 No, it is not being followed all the time. Now, perhaps it is, by these new contractors, it is being followed a little more carefully than it was by Dewars. We had nothing but trouble with the contractors from Dewars, and even now every one of these items in the procedure is not followed.

25 In fact, the people that are doing the actual work wear the coveralls that are supposed to be used for removal, but they eat with the same coveralls, some of them tear the sleeves off because they are so hot, and often times the masks are never worn, even when it is being stripped.

30 We've found asbestos insulation in garbage cans instead of plastic bags, and it was in the dry form instead of

A. (cont'd.) a muddy substance that it should be if it was wetted down properly.

5 So even now the procedure is not being enforced as it should be.

Q. You indicated that there was a gap of three or four months between one contractor and the other, and there was some speculation or implication that this was a budget measure.

10 I am just wondering whether either in the joint health and safety meetings or elsewhere, whether management ever discussed the budgetary aspects of health and safety. Did they ever say we can't do something this year because it's too expensive, or this will cost X amount of dollars and therefore we have to put it off? Were you ever privy to that kind of information?

15 A. No, I can't say that. I've always been led to believe that health and safety is a noncost item at Ontario Hydro. At least that's what they claim.

Q. A noncost item?

20 A. Like there is no...they would go to all lengths for health and safety.

Q. One of the...again to refer to appendix six in your brief, which is a Hydro directive...one of the directives in there is that any asbestos-containing insulation should be removed from the stores. I'm wondering if that is the case at Hearne.

25 A. As far as I know, the actual insulation has been removed from the stores. There was some asbestos blanket and some asbestos tape, which is two-inch wide...it's like blanket, only two inches, or thereabouts wide, rolled in a tape, and asbestos gloves used for handling hot materials.

30 Those items were only recently removed from the

A. (cont'd.) stores.

5 The insulation was removed a few years back, if I'm not mistaken. The asbestos tape was removed last year. Firstly, it was packaged into plastic bags and kept in stores, and then it was replaced with a Z-tex type fiber glass tape, and the asbestos gloves were replaced, I think it was around March, 1982.

10 Q. Again to refer to this appendix, appendix six, on page six under Respirators, it states that:

"The approved type is available from central stores and listed in the standard stores catalogue".

I gathered that this memo is dated from December of 1975.

15 Now, your survey indicates that eighty-nine percent of those surveyed weren't aware of these masks until 1980. Was there never any attempt to, that you were aware of on the part of management, to let you know of the type of mask that you should be wearing, the type of respirator, between 1975 and 1980?

A. No, no.

20 Q. What kind of respirators would you have been wearing during that period?

25 A. I only know of two types of masks that were available when I first started. One was a 3-M paper type mask, which is essentially just a piece of filter paper with rubber bands on it, and another one I believe was called a Dustbane Respirator. It was a rubber mask with a replacable gauze filter element. Like, you would obtain pieces of gauze from the stores, that were cut to shape, and then there was a circlet that you would take off and insert the gauze.

30 Those are the only respirators that were used until 1980, and then in 1980 they did bring in the ones that were supposedly approved, the Comfo Two, and various kinds of

A. (cont'd.) respirators after that.

5 Q. During this period of 1975 to 1980, under what circumstances would you be required to have worn the respirators you have just described?

A. When would we be required to wear them?

Q. Yes.

A. We were never required to wear them.

10 Q. There was never a requirement, if you were doing a particular job you weren't told by management that either...

15 A. No, we still aren't required to wear respirators even now, even the proper ones. It is strictly a voluntary thing...except for the procedure. The procedure does outline that you should, when removing asbestos you should be wearing a respirator.

But even now when people are working on it, the contractors, they do not wear the respirators, and the only ones that would seem to want to enforce it is the union health and safety committee.

20 We have never...like, the workers have never been told to wear respirators.

DR. DUPRE: Are respirators at least available for workers who want to wear them?

25 THE WITNESS: Yes, they are. There is an abundant supply of them in the toolkit.

DR. DUPRE: And you mentioned that at least the health and safety committee is interested in making workers aware that respirators are available, is that correct?

30 THE WITNESS: Yes, yes. I think all workers are aware that respirators are available, just by the sheer abundance of them in the stores, and also people do, now that they are available, people do make use of them - especially the people

THE WITNESS: (cont'd.) that are more, perhaps, knowledgeable or concerned about their health and welfare. Especially, I would say, the younger people wear them more often.

DR. DUPRE: Would you say that in the time you have been on the health and safety committee, that the health and safety committee has taken any particular steps to try to communicate to workers the importance the health and safety committee attaches to their wearing respirators?

THE WITNESS: Officially I don't think there has been a policy set out by the health and safety committee that this is what we should recommend to the workers.

We have tried, from the union side, tried to enforce the procedure as outlined in appendix five, relating to the removal of asbestos, and we have policed it as much as we could.

However, as workers we are in one area at one time, usually. You don't walk around the plant and see what else is going on, so the only time that we would run into a situation is either walking for lunch or walking to the job. You would see...or somebody else of the workers would come and bring something to your attention, as a member of the health and safety committee, that there is stuff falling down over there, or... basically we have been very powerless, we feel, from the union side anyway.

DR. DUPRE: But I do take it that at least the union side of the health and safety committee has been eager to see that workers avail themselves of respirators?

THE WITNESS: Yes, I would say that is a correct assumption. We have been after management to enforce their procedures regarding the use of respirators and regarding the removal and handling of insulation material, but I think that is the wrong way around. It should be, if anything, it should be management that is interested in enforcing their procedures,

5 THE WITNESS: (cont'd.) since they do set the procedures. We have very little input into...as was mentioned by Mr. Wilson. The procedures come down onto the workers at the very last stages of their development.

We would like to see them enforced.

10 DR. DUPRE: Insofar as there are five union people on the joint committee, and three management people on that joint committee, what if anything has, in your view, prevented at least the management members of the joint committee from coming on side so that the whole joint committee, at least, can go on record in terms of recording its view that employees should use respirators?

15 THE WITNESS: I really don't know. I don't know if management people would be against wearing respirators. I think perhaps they would be against enforcing the regulation.

20 I don't think they view it as a regulation. They feel that...for example, there are three things that you do have to wear as far as protective equipment goes in the plant - that's your safety work boots, your hardhat and your safety glasses. They do enforce those very stringently. If anybody is caught without glasses, they are warned and repeatedly warned, and even there have been people that have been suspended for not wearing glasses. But respirators seem to be a different...it just seems to be a different type of protective equipment. They seem to want it to be an optional thing, as is hearing protection. Hearing protection is viewed in the same way. It's a voluntary thing. If you feel you need it, we have it in the stores, you go and use it.

25 They do not want to enforce a regulation telling you that you must wear a mask. That's the way I see it anyway. I could be wrong, but I don't...

30 DR. DUPRE: Have the union members of the management committee ever actually put the issue of enforcing

5 DR. DUPRE: (cont'd.) the use of respirators on the agenda of the joint committee, so that they could get management on record one way or the other way?

THE WITNESS: No, not that specific use of respirators. No, I don't believe that has ever been approached as an issue by itself.

The enforcement of the procedures and so on, yes. But not respirators.

10 DR. DUPRE: I take it there is nothing to prevent you from putting it on the agenda of the joint committee as an issue?

THE WITNESS: No, no.

15 DR. DUPRE: If you were so inclined as the union representative?

THE WITNESS: I would say you are right. The only thing is, I think as union people we know what it is like to wear a respirator eight hours a day, and it's awfully uncomfortable.

I think there are better ways of controlling the problem, rather than wearing a respirator.

20 Mind you, there are areas and jobs that require use of respirators, no doubt. But that is a very one-sided approach to the whole matter. I think cleaning up the workplace is probably the initial thing that we as union people would be after management for.

25 DR. DUPRE: Are you after management, though, to ensure that respirators will be used in operations where, you know, in your view they are required, in particular operations?

THE WITNESS: Yes. We have brought it to the attention of management that people are not wearing respirators.

30 As union people on a health and safety committee, we have no managerial power to go to a person and tell him he must...

DR. DUPRE: That is correct.

THE WITNESS: ...do this or he must do that.

DR. DUPRE: That is correct.

THE WITNESS: We have pointed out to management that people are not using the equipment.

DR. DUPRE: And you have made this an agenda item on health and safety committee meetings?

THE WITNESS: As an item? I don't know if I can refer to minutes and find it as a specific item. I know we have raised this issue over and over again.

MR. McCOMBIE: Q. Just to clarify something, as I understand your answer to the Chairman, while you may not have specifically raised the wearing of respirators as such, as an item, you certainly have pointed out in the joint health and safety committee meetings that the policy which includes the wearing of respirators has not been followed, as far as you understand. Is that correct?

THE WITNESS: A. Yes, that is correct.

Q. Okay. I notice in appendix five of your brief that copies of samples, a sample of analyses...this is insulation from units number eight, R.L. Hearne, and insulation from unit number four, R.L. Hearne...and this is dated August, 1980, and I notice the distribution list at the bottom, and I'm wondering if any of these people to which this was distributed would be representing the workers at Hearne?

A. I believe Mr. W. Wright would be a member of the bargaining unit. He doesn't work at the Hearne any more. He was employed in the chemical lab as a lab technician.

Q. To the best of your knowledge, has there been further samples, analyses, such as these that have come to the attention of you or anyone else in the joint health and safety committee?

5 A. I believe there have been samples. We have one person that is employed in repairing...one person that is locally employed in repairing insulation on a small scale, in the plant.

10 Other than that, large jobs are contracted out. Small, little jobs are handled by this one person, and I believe that whenever access is required through insulating material - as for example, getting into hopper - insulation is cut away and then the metal is cut away. He has taken samples and sent them to the Ontario Hydro lab to be analyzed.

Q. And he personally would get the results back from the lab?

A. Yes, he does.

15 Q. Would a copy of those results also go to the committee, as a matter of procedure or routine?

A. I think lately it does, yes.

Q. Lately?

20 A. I don't know in the past. I don't imagine, judging by the way things were in the past. I think presently they do, though.

25 Q. I just also noticed, while we have this page open, that certainly the first example here, insulation from unit number eight, under asbestos type it seems to have the three major fiber types we have been dealing with.

I am wondering when you are getting information on... you mentioned in your opening statement that there was readings that you get copies of, and I was wondering if they ever break those readings down into fiber type in any way?

A. The air monitoring, you mean?

Q. Yes, the air monitoring.

30 A. The air monitoring results that I have seen have not broken the concentration levels down into different types of fiber.

DR. UFFEN: Could I ask a question here, while we are on this?

5 I believe you have in mind the different types of asbestos. But what about the possibility of other kinds of dust? Is there any information made available to you that shows whether the dust is partly asbestos, all asbestos or...?

10 THE WITNESS: I believe the way they analyze these samples, from my knowledge anyway, as little as it may be, I believe that the actual analysis that they perform is through a membrane and microscope, and they do count the actual asbestos fibers as opposed to any other kind. They do wash the sample before analyzing it.

15 I don't know exactly how they do it, but the concentrations that we get are just of asbestos fiber, not of any other...we have plenty of other varieties of dust in the place.

DR. UFFEN: It reminded me of a statement you made in your introduction a little while ago, about the plant being old and dirty and dusty, and it's in here.

THE WITNESS: Yes. In fact...oh, sorry.

20 DR. UFFEN: Go ahead. What were you going to say?

THE WITNESS: In fact there was one sample...there was a series of samples run, and one sample, the results were not tabulated because it said, instead of concentration it gave that the sample was too dirty to count. That was the explanation given for no figure on the concentration.

25 DR. UFFEN: Now, what other kind of dust could that be?

THE WITNESS: Well, there's two basic types of dust at the plant, aside from asbestos fiber, would be fly ash and coal dust.

30 DR. UFFEN: The plant burns coal now?

THE WITNESS: Yes. Yes, it does.

DR. UFFEN: How long has it burned coal?

THE WITNESS: It has burned coal since day one,
5 and then it was converted to natural gas in about 1972, I believe,
and no longer...natural gas is no longer used.

DR. UFFEN: It has returned to coal?

THE WITNESS: It has returned to coal.

DR. UFFEN: Is there a lot of coal dust around?

THE WITNESS: Yes, there is. Especially when there
10 are failures in the piping.

DR. UFFEN: Then whatever procedure the laboratory
uses to measure the dust, it would be important to establish
whether a lot of the dust is coal, fly ash or asbestos?

THE WITNESS: We have never really gotten involved
15 in how they arrive at these concentrations. We have more or less
had to take them for granted.

DR. UFFEN: While I'm on the question of concentration,
we were looking at the piece of paper there in appendix five where
the analysis was all from unit eight. Now, these were analyses of
samples taken from various places, and the concentrations given
20 in grams per kilogram, so they must have taken a chunk of the
stuff and then weighed it, and then identified the amount of
asbestos in it?

THE WITNESS: Yes, I would imagine.

DR. UFFEN: My question is, was any of this stuff
25 in a friable state? Or was it in a nice, solid, hard encapsulated
state?

THE WITNESS: I can't answer that. I really do not
know.

There is a man here that perhaps could help us.
I would imagine he was involved in the actual samples being
30 taken - that's Dave Bishop at the end there. He's the only...if
you would like him to answer that question.

DR. DUPRE: Could we have the answer to that question?

5 MR. BISHOP: Yes. When the samples were taken, I took a small knife and I cut into the vessel the insulation was on, and I took a bag, a little plastic bag, and I marked each place that I took a sample from and I numbered that sample as coming from the first point, second point or whatever it was.

10 We took a total of two hundred samples throughout the plant, and the majority of them came back containing asbestos.

So they recommended that any time we were dealing with asbestos, that we treat it all...(last few words inaudible).

15 DR. UFFEN: Well, my point was, the tests showed that there was asbestos. In fact it shows the various kinds of asbestos. But one of the things that I'm curious about is, was the asbestos in a friable condition and was there any asbestos dust?

MR. BISHOP: Oh, yes, there would be a certain amount of dust because it had been on for a given length of time. Some of it had been on twenty-five years.

20 DR. UFFEN: But did anybody measure how much asbestos dust?

MR. BISHOP: No. No, I just took a sample, put in the plastic bag...

DR. UFFEN: And you had to cut it with a knife to get it out?

25 MR. BISHOP: Yes. I cut the canvas, it's covered in canvas. You cut the canvas off first...

DR. UFFEN: So the canvas was containing it all?

MR. BISHOP: Yes. Some of it. Some of it was where the elbows were broke away, too.

DR. UFFEN: Was it leaking out at elbows?

30 MR. BISHOP: Oh, yes. There's still spots down there where it's leaking out at the elbows.

THE WITNESS: There's numerous spots. That is the whole point.

5 DR. UFFEN: That's the point I was trying to get at - whether the stuff is in a contained...

THE WITNESS: No.

DR. UFFEN: ...encapsulated position, or whether it's leaking out and if there is a dust count.

10 THE WITNESS: Well, we...if you don't mind, on May 26th, 1982, myself and the chairman of the health and safety committee did a safety inspection of number eight unit.

DR. UFFEN: The same one?

15 THE WITNESS: The whole unit, yes. And it took us from nine-thirty to three-forty, and we walked the whole unit from the seventh floor down to the ground floor, outside and around the building, and we did list all the defects that were on the unit and there were numerous defects that involved broken insulation.

20 DR. UFFEN: Was there any identification put on these various sites? Was there a sign put up, 'asbestos', or any similar kind of thing to warn or alert the next person who comes by?

25 THE WITNESS: No. The only time that a sign is placed is if anybody is working on the actual insulation. Only lately have those signs been placed. It's on a rope and it just says, 'caution - asbestos'. That is...that has been used for about a year and a half now, at the plant, those kind of signs.

MR. McCOMBIE: Maybe if I might, Dr. Uffen, as you have raised the question, I have taken the liberty of reproducing the report referred to, and I would like to enter that.

DR. DUPRE: Are we numbering that, Mr. Laskin?

30 MR. LASKIN: I believe it's seventy-three, Mr. Chairman.

DR. DUPRE: Seventy-three.

EXHIBIT # 73: The abovementioned document was then produced and marked.

5 MR. McCOMBIE: Q. And I think you indicated, Mr. Girdouskas, in your answer, that this was not a joint health and safety committee project, but one which you and the chairman of the health and safety committee, who is also a union member, undertook? That's correct?

10 THE WITNESS: A. Yes, as is our right under the Occupational Health and Safety Act, the inspection of the workplace.

Q. Without going through this in any great detail, I would just like to ask whether, when it indicates insulation - for example the third item on the first page: 'insulation on west end of drum exposed, needs to be covered', would insulation...can we assume there is asbestos insulation you are referring to?

15 A. You can assume that there is asbestos in that particular area, and in fact in almost all of the areas that we looked at where it was broken, I think it would be a fair assumption to assume that asbestos was involved.

20 Q. I guess one could assume, and I...that the older areas would break down more readily than the newer ones, and the newer ones would have been the ones that would have been repaired with insulation-free...or asbestos-free insulation, is that...?

A. Yes.

25 Q. ...a fairly safe assumption?

A. That has been the practice ever since I have worked at the station. Any insulation that has been repaired has been replaced with the asbestos-free insulation.

30 Q. I'm just...just one particular item on here...as I say, I don't want to go through the whole thing, but on the very last page, keeping in mind that this audit was done on May 26,

Q. (cont'd.) 1982, the first item there: 'ground floor, garbage can full of loose asbestos insulation behind FW panel' maybe you could tell us what FW...?

A. Feed water, feed water panel. That's on the ground floor.

Q. So this would have been a garbage can...it was just loose in a large garbage can, is that correct?

A. Yes. And having had a little bit of experience in judging what is and isn't asbestos, I think I'm pretty correct in saying it was asbestos.

Q. Was there any...

A. We didn't analyze it. I mean, we did not take a sample and analyze it, but it was fairly obvious that it was asbestos.

Q. Would this have come from the contractors who were doing the removal, or do you have any speculation as to where this came from?

A. Not really. There is work in progress everywhere, and there is insulation falling off everywhere. Perhaps one of the cleaners swept it up and scooped it into the garbage can. I don't really know.

Q. Is that can still there, as of the last time you were at work, or has it been removed?

A. I never followed up on this one. I don't know.

Q. Okay. I just have a couple of general questions I would like to...

DR. DUPRE: Just before you go to that, Mr. McCombie, can I just ask the following: This is an audit that is done by you and a Mr. Seaton?

THE WITNESS: Yes.

DR. DUPRE: Who is also a member of the H and S committee?

THE WITNESS: Yes. He's the chairman.

DR. DUPRE: Is he management or labour?

THE WITNESS: Union.

DR. DUPRE: He is union?

THE WITNESS: Yes.

DR. DUPRE: Pursuant to...what is your understanding of the basis on which you carried out this safety audit? Is this something that in your view you have done because it is mandated by the legislation?

THE WITNESS: Yes, I would say...there was an incident leading up to us getting involved in workplace inspections, which occurred prior to this.

Making a long story short, there was a fire on one of the units and there was nobody hurt, but there was considerable damage done to the equipment, and we as the members of the health and safety committee approached management and requested that we would hold a joint health and safety committee investigation into the incident leading up to the fire.

Management came back to us and told us...I have the minutes of the meeting where the reply was given...perhaps I will just read them out to you, then it will make things clearer:

"The Canadian Union of Operating Engineers and General Workers membership had requested the health and safety committee conduct an investigation into a fire on number eight unit.

C.J. Butler...", who is the production manager... "advised that investigations had been carried out by supervisors concerned, and summarized into a final report by him.

A copy of this report was given to R. Seaton, who is the chairman of the health and safety committee, and copies have been posted on the bulletin board.

THE WITNESS: (cont'd.) "R. Seaton again queried the involvement of the Ontario Hydro fire marshall. C.J. Butler replied that they only get involved if someone is injured or if it is considered a major fire. The city fire department will respond if plant personnel are unable to cope.

P. Neugent...", who was the stand-in union representative at the meeting..."stated that the union members of the station should register their dissent regarding a union member of the health and safety committee not being present during the investigation. A. Yellery...", who is also a union member...

"proposed that in future a union representative of the health and safety committee be present or involved in investigations of safety-related occurrences.

C.J. Butler...", who is the production manager... replied, "this committee could make recommendations on health and safety items to the station manager. However, investigations into such incidents as fires will be investigated by the supervisors concerned.

It is the management's responsibility to check into all incidents occurring in the plant.

The health and safety committee may carry out an inspection for hazards once per month, and may nominate a member to carry out an inspection of the area if an employee has been killed or critically injured."

That is a direct quote from the Occupational Health and Safety Act.

"In this particular case, the fire was an engineering

THE WITNESS: (cont'd.) "fault, and the causes have been under investigation for years by Babcock and Wilcox, and Ontario Hydro personnel.

Since we are unlikely to have any major changes at this stage, we must concentrate our efforts on good operating practices. Early detection of cold-pipe fires is essential."

That's the end of that. So that's basically what led up to the union becoming more pursuant of the Act. We felt that was one of the avenues suggested by management, and pretty well the only avenue that we have in making any changes to the safe conditions of our workplace.

DR. DUPRE: And once you...can I take it that this was the first audit that was carried out by two union members?

THE WITNESS: To my recollection it was, yes.

DR. DUPRE: It was the first one?

THE WITNESS: Yes.

DR. DUPRE: Once you had put this idea to management, they basically co-operated with all of this?

THE WITNESS: Yes, yes. Because they had, of course, suggested this.

DR. DUPRE: And I take it from this sheet that the audit was carried on between the hours of nine-thirty and three-forty on May 26th. Was this paid time for the...?

THE WITNESS: Yes, yes.

DR. DUPRE: And there was no question raised about paid time?

THE WITNESS: No.

DR. DUPRE: It was absolutely accepted from the word go?

THE WITNESS: Yes.

DR. DUPRE: Thank you.

5 MR. McCOMBIE: Q. Okay. As I say, I just have a couple of general questions to finish off, and we have heard testimony from various people, particularly from the Ministry of Labour, that the 1978 Health and Safety Act, Occupational Health and Safety Act, was certainly a step in changing the whole procedure of dealing with occupational health and safety in this province.

10 I am wondering from your perceptions of having worked at the Hearne for the period 1976 to the present, I am wondering if you felt that there was any dramatic change that you noticed after the Occupational Health and Safety Act came into being? Did it change the perspective or was it other events that happened that got more involvement of the union members in health and safety?

15 THE WITNESS: A. No, I think the Occupational Health and Safety Act has had some benefit to union involvement in health and safety in the workplace.

20 It is frustrating, because the Act has its limitations as far as union involvement, as was presented by Mr. Sass on the same day that Mr. Wilson spoke. The Saskatchewan Act gives the unions and the workers a little more...I don't want to say power because it has its bad connotations, but it gives the workers a little more influence into the management of health and safety in the workplace.

25 We find that the present Act comes a little bit short of that, because we are, after all, just recommending to management, and management either acts or does not act on our recommendation.

30 Q. Do you feel overall, then, that the workers at Hearne and the union representing those workers should be more... should have more influence, as you put it, or power, in controlling the work environment? Based on your experience with the asbestos problem?

A. I wouldn't disagree with that, no. I think Mr. Wilson would disagree with it, as he did on the 15th of June.

5 Q. Let me just finally ask you in a very general way, as the Commission has been going for some time looking at the problem of asbestos, and I'm wondering if you can just give us a general feeling as to whether or not you feel that the present structure, either through Hydro or through the government, has adequately protected your members as far as asbestos problems go?

10 A. No, I don't think our workers have been adequately protected. There is more effort being put into awareness and protection every day because of...I think because of the strong union activity lately, as regards the hazards of asbestos. I think that, as in the past, there was very little, as is demonstrated by the brief and by the survey that we
15 presented, up until 1980 there was really very little attention placed on the hazards of asbestos. There was no attention placed on it.

20 Q. You indicated in your opening statement that in many instances unions can only react to management functions. It strike me to some extent, and correct me if I'm wrong, what you are saying is that in many ways the reverse is true as far as health and safety issues, and that when there is union involvement and union awareness and activism, if you like, then management will react in a particular way.

25 A. Oh, yes. Yes, they do. Management does have a reaction to our reactions, and it sometimes snowballs and I think, as Mr. Sass said on the 15th of June also, it sometimes carries over into the collective bargaining process, and I'm not sure if it has in our case, but we haven't had much success in settling our latest contract. I don't know...I'm only
30 speculating that that might have something to do with it, but there is a tendency to take up sides and become more adversarial

A. (cont'd.) from both sides, I would say.

5 MR. McCOMBIE: Okay. Well, thank you very much,
Mr. Girdouskas.

DR. DUPRE: Just to follow up on that last line of questioning, Mr. Girdouskas, could I just take you back to the refusal-to-work episode that you described as having taken place on May 6th, 1982?

10 THE WITNESS: Yes, okay.

DR. DUPRE: Now, I take it that at this point, basically, the Act was working, in the sense that the employees perceived the danger and they refused to work?

15 THE WITNESS: Yes, yes. I would say that the employees did everything that they could to avoid having to refuse to work.

DR. DUPRE: They tried to avoid that, but when the crunch came, you refused to work.

THE WITNESS: Yes.

20 DR. DUPRE: This would be an instance where you were using some of the clout that the law quite properly gives you?

THE WITNESS: Yes, very shyly, but we did eventually have to make a stand and each individual worker was asked if he did refuse, and the group of five workers, each individually, spoke up and said yes, they did refuse.

25 DR. DUPRE: Okay. This is something that the law provides for.

THE WITNESS: Yes. It was the first instance of this power being used in our workplace.

DR. DUPRE: Okay. If it's there, it's presumably there to be used under the circumstances if the workers wish to use it.

30 At this juncture, if I recall your description, an inspector was called in?

THE WITNESS: Yes.

5 DR. DUPRE: The one thing I didn't quite follow at this juncture, because perhaps you were being absolutely descriptive and perhaps on the other hand you were editorializing, I think that I heard you say that the inspector had come up with a typical compromise or...

THE WITNESS: Nondecision.

10 DR. DUPRE: A nondecision? Okay.

I'll take that as a description, but then as I recall your testimony, the next point you made was that management was told to adhere to their cleaning, their own cleaning proposal, to observe their own cleaning proposals. Is that right?

15 THE WITNESS: Well, in actual fact the inspector did not make any decision - which is why I called it a nondecision. The inspector came in and got both union and management together in one room...

DR. DUPRE: Okay.

20 THE WITNESS: ...and he acted basically as a conciliator, without any leaning to either side. He basically told us that we were to pretend that he wasn't there, and that we were to try to come up with a solution that would suit both parties, and he felt that this incident should not have happened because he felt that we should have done this without him being there in the first place.

25 On our part, I think that we had done everything that we could before we called the inspector in, and even though the inspector did say that he felt the incident was not investigated properly, I disagree. I think it was investigated as properly as it could have been. We had approached all levels of management regarding this, and I think it just basically came
30 down to a test of wills. Because it hadn't been done before, I

THE WITNESS: (cont'd.) think that management was looking forward to having the inspector there, and they were expecting a decision from him. But he refused to make one.

I guess in the end, if it would have had to come down, the inspector would have had to go back and make some sort of decision. But as it worked out, he did not have to make a decision.

DR. DUPRE: Right.

Now, I just take it from what you have been saying that there probably was some expectation from the union side that the inspector would make a decision?

THE WITNESS: Yes, I would say there was expectations from both sides.

DR. DUPRE: Okay. Good. Because I also take it that you had some expectations that management would make a decision. Okay.

Now, as I understand it, the way matters turned out, the inspector shows up and he says, all right, I'm going to conciliate this one, and he brings management and labour together and he operates as a nondecision-maker, if you will, as a conciliator, and the result is what, that there has got to be some cleaning up done?

THE WITNESS: Yes.

DR. DUPRE: Now, can I take it that the cleaning up that is done is acceptable to both labour and management?

THE WITNESS: It's hard to say. The procedure that was agreed upon should have been acceptable and was acceptable to both. In the end what actually happened was the equipment that was being used for the cleaning operation broke down, and consequently the area was not as clean as it should have been.

I think we basically just tolerated the situation,

5 THE WITNESS: (cont'd.) even though we knew that they made every effort to clean it, but in the light of the equipment breaking down...it is specialized equipment...no, it did not come out as well as it could have come out. No.

10 DR. DUPRE: Well, in the real world, things normally don't turn out as well as some abstract notion of perfection could evolve, but I just want to tell you why I have been pursuing this line of questioning, and it is simply because we have had described to this Commission, both in testimony and by researchers, in quite elaborate detail, the general philosophy of the joint responsibility system in matters of occupational health and safety, including what this implies for the role of inspectors. I simply want to share with you the observation that to the extent that in this instance an inspector showed up, perhaps in a setting where each of management and the union were expecting a policeman, but then were perhaps surprised to see a conciliator on hand, that perhaps they shouldn't have been that surprised given what I understand is the whole philosophy of the internal responsibility system as it is, among other things, articulated in the Ham Report, and has come to be to a degree reflected in legislation, but to a degree also reflected in ministry policy.

15 It's just an observation, for what it's worth.

All right. May I have the batting order, please?

20 MR. LASKIN: I've got one or two questions.

25 DR. DUPRE: All right. Do you wish to go ahead, Mr. Laskin?

MR. LASKIN: Surely.

CROSS-EXAMINATION BY MR. LASKIN

30 Q. I just wanted to ask you one or two questions, Mr. Girdouskas. It's really about the right to refuse unsafe work, and I take it...I was out of the room, I think, when you

5 Q. (cont'd.) started part of the discussion about the May incident...but during your tenure at Ontario Hydro, and I take it since the passage of the Act, is that the only occasion that the Hearne Generating Station, where that right has been exercised?

A. Yes. Officially that is the first time, under the present legislation, that that right has been used.

10 Q. All right. From your own personal experience, have you felt that you have had other occasions, and let's deal with asbestos, other occasions when you feel you might have had grounds to exercise your right to refuse unsafe work?

A. Yes, yes.

15 Q. Then my question is, you are obviously knowledgeable and you are aware of your right under the Statute, why haven't you exercised the right?

20 A. I think that it happens all the time that people are afraid to exercise their right, because they...even though we do have the knowledge of what the legislation provides for us, people are afraid to use it because it seems like a drastic measure. It's like you are depriving your employer of your services, which is why you are there in the first place.

25 I don't disagree that that right has quite a bit of power, and perhaps...sometimes it would seem that it might be a tool that management would think you were using to gain other things other than a safe working condition.

30 There is an intimidation factor, too. I think that the way this work refusal took place, each individual person was...nobody was actually approached as a group, each individual person was approached and asked if they, too, agreed that this, you know, that they were refusing to work.

At any one time, there were five people in the group, at any one time this process could have broken down if the people

5 A. (cont'd.) weren't together enough, because if one had said, well, I don't feel it's that bad...which...there was some concern about that, because each person is an individual and the management has different ways of acting upon these people, or impressing these people...so it could have broken down any time, but it did not this time.

10 There were several approaches by management before this actual work refusal was, as you might say, consummated by the fact that the inspector was actually called. The chairman of the health and safety committee did not call the inspector. The chairman asked that the station production manager call him, and it went back and forth, different levels of management got involved, until finally at the very end the upper station management were involved and the chairman said, yes, the workers still
15 refuse to work, and you are going to have to call the inspector.

So I don't know how to answer that.

It takes a lot of courage to use that right, I would say, and I don't know if all people have that kind of courage and togetherness as a group, because you have to have
20 the togetherness if you are working in a work group.

Q. Why?

A. Well, if there is more than one person working on a certain job...as in this case there were five...if one person feels it's unsafe, the other four feel that it's not that bad, when they have to make a stand it's pretty hard to stand up amongst
25 your workers and say, I refuse, and the rest of the guys say, yes, I will work even though it's bad.

It takes a lot of...I think it takes a lot of courage to exercise that right.

DR. UFFEN: You mentioned fear. Is there a fear
30 that the plant might close?

THE WITNESS: Oh, yes. That fear is very prevalent,

5 THE WITNESS: (cont'd.) especially at the Hearne station, because there have been so many layoffs and so many cutbacks on staff and on production, and that is an imminent threat all the time. The lower levels of management seem to thrive on reminding the workers that the station will close.

10 In fact, the lower levels of management...I'm talking about the foremen involved...were very persistent in making sure that people knew that the plant could close - especially during this work refusal. Those were comments that were being fielded into the work groups.

15 So I guess you could call it intimidation, and there are things in the Act that protect people from that kind of activity, but practically speaking it's very difficult to... again, it takes courage to go after persecution under the Act, or whatever you might call it, so it becomes really not a safety issue anymore. It becomes a confrontation between management and union in the end. That's what it turns out to be.

20 DR. UFFEN: I forget the wording in the Act. It says 'without fear of intimidation or loss of job', or words to that effect, and of course intimidation and fear are different depending on whether you are dealing from one side or the other.

THE WITNESS: That's right.

25 DR. UFFEN: It's a difficult thing to...some person believes he is being pressed, and another person believes he had no such intention. It's not...even a careful inspector might have difficulty with the perception of intimidation.

Sorry, I...

MR. LASKIN: No, that's fine, Dr. Uffen.

DR. UFFEN: It's a point we haven't had before.

30 MR. LASKIN: Q. All right.

Early on in your talk, you referred to lower management

5 Q. (cont'd.) and you have come back to lower management, and the words that I jotted down were: You said the attitude of lower management was 'firmly set and slow to change'.

A. Yes, I would agree with that.

10 Q. Is the lower management that you are referring to there, is that the same lower management that is sitting on the joint health and safety committee, or is it a different lower management?

15 A. No, on the contrary. And in contrast to what Mr. Wilson said about health and safety committees, we have on our health and safety committee, I would say, the upper management in the plant...at least one person represents upper management in the plant...and the other two are above the supervisory level, so we do...out of the three people on the committee, they are in the upper levels of management in the plant itself...not upper as far as Ontario Hydro goes. Those are lower levels when you are talking about the upper structure at head office, and so on.

20 Q. But upper in terms of the personnel that's at the Hearne Generating Station?

A. Yes, yes.

25 Q. And with all the limitations that you say are built-in to health and safety committees...that is they are advisory in nature and so on...what can you say as to whether your health and safety committee is working properly or not?

30 A. I would say it has a few shortcomings. I think that we are beginning to learn more...I find that probably the knowledge of the Act and the application of the Act is probably one area that the union people are lacking in. I think we lack education as far as...even a simple work refusal, there is a proper procedure for a work refusal and it is something that not every worker knows of, the different steps. The Ministry of Labour

5 A. (cont'd.) comes in with a check list. He has about twelve steps on it, that if these conditions were not met, then the work refusal is not a proper one.

10 Those kind of things, I think, are lacking, and also in the past I think not as much as now, now I think our committee is perhaps a little more even-balanced, even though we outbalance management five to three. I think in the past management was dominating the committee...not in numbers, but in spirit.

15 I think the key is education, and I would welcome something like the Ministry of Labour spokesman from Saskatchewan, Mr. Sass, under their Act they have a two day educational provision whereby the Ministry of Labour instructs both union and management on the different aspects of the Act.

20 Q. Have you or any other members of your committee had any instruction whatsoever, apart from this memorandum you have referred to, from the ministry?

A. No. We are in the process of organizing a seminar on the Occupational Health and Safety Act...the union is.

25 Q. Just for the employees at your plant, or generally the Canadian Union of Operating Engineers for all of its members?

30 A. I am personally involved. I am the chairman of the central health and safety committee for the Canadian Union of Operating Engineers and General Workers, and it would be for the whole union.

Q. Where are you going to obtain your materials, are you going to draw on the expertise of any other group like that?

A. Probably our affiliation to the Canadian Confederation of Unions. I would welcome some support from them on that.

MR. LASKIN: Thank you, Mr. Chairman.

DR. DUPRE: Mr. Lederer?

MR. LEDERER: Thank you, Mr. Chairman.

CROSS-EXAMINATION BY MR. LEDERER

Q. As I understood an answer to a question you just gave, sir, you indicated that one of the problems of workers exercising their rights under the present Act is this notion of fear or intimidation. Did I get that right?

A. Yes.

Q. Now, I also understood you to say that, to the Chairman, to a question which he asked you some five or ten minutes prior to that, that as a practical matter on the one occasion to date on which the workers of the Hearne Generating Plant have exercised the right of refusal under the present Act, there were in fact no reprisals of any kind?

A. No, there were not. There were none.

Q. So that on the basis of that admittedly one experience, it would appear, or can we agree that it would appear, that there may well be no reason for that fear or intimidation, or at least in that one case it would not have been justified to have that fear. Is that fair?

A. Well, on the one hand there were no official reprisals, but somehow the people...I don't...you know, this is all implication. I can't really accuse management of doing something that they shouldn't have done, because it's part of their function. But two of the people that were in the work group did receive letters within a week, about their excessive use of short-term sick leave.

Now, that is a common practice with all employees. I'm not saying that they specifically sent it out to people, but this happened very shortly after the work refusal.

A. (cont'd.) I don't know if...I can't really relate that to a reprisal.

5 Upper management in the station did not make any reprisals whatsoever. I can say that.

Lower management, however, the foreman level, did spread quite a bit of dialogue about the station closing and things like that.

10 Mind you, they do not determine policy and we all know that they don't determine policy, but the worker on the floor does not care whether a foreman determines policy or not. It's still intimidation in a way.

15 Q. I just want to see if I understand that. There was no...if I can use the term because I can't think of another one...there was no official reprisal in the sense that nobody was fired, there was no...

A. No, no.

Q. ...disciplinary action of that type.

A. No.

20 Q. But there may have been something more subtle in that two people received notices regarding their over-use of sick leave, although if I understand your evidence correctly, you are not really prepared to go so far as to say there is actually a connection?

A. No, I can't say that there is a connection.

25 Q. Secondly, lower management talked, to some degree, about the plant closing?

A. Yes. Yes, they did. Yes, they did, for all it's worth. But for some people, it's worth a lot. That's all it takes in a...

30 Q. Given your understanding of it, if I can just come back to my question, your understanding of the situation, one, that you are not able to make the connection, and two, that

5 Q. (cont'd.) you recognize that lower management really has no say in the plant being closed, is it fair to say from your perspective, knowing what you know as an individual, that that fear of intimidation simply wouldn't be warranted, at least based on that one experience?

10 A. For myself, no. I feel a little more knowledgeable, perhaps. I am on the health and safety committee, I am the chief steward of the local, and I also belong to the central health and safety committee, so therefore I have a little bit more, perhaps, insight into how management operates, but for the ordinary worker on the floor, a comment made by a foreman... even though it's worth very little as far as weight goes...they do not set policies, and I know that, but rumours have had tremendous effects on people.

15 Q. Again, from your point of view as, again, for want of a better term, an educated worker, you would agree then that there isn't any constructive reason to feel that fear, although you may be the exception because you have that extra knowledge?

20 A. Yes, I would agree with that.

Q. Okay.

Now, what I would like to try and do, and I may be entirely misguided in this, but I would like to try and look at what I think might be one other side of that same problem.

25 You indicated that masks were available, but they were often not worn by the workers. Is that right?

A. At what time? It depends...masks are available presently. And they are supposedly a fifty-to-one efficiency factor, which is quite...in terms of asbestos, they are NIOSH approved and so on.

30 Q. And did you say that there were workers who don't wear them, though they are available?

A. Oh, yes. There are many workers that do not wear them.

5 Q. All right. Do I take it that some of those workers who do not wear masks, do not wear them despite the fact that they may know of the potential danger of working in and around asbestos?

10 A. I think everybody in the plant is aware of the potential danger by now, because of the publicity and the union activity and the survey. The survey brought home many facts to people that, you know, were not aware of the hazards of asbestos.

Also, they do know the union has been actively involved in briefs and submissions.

15 Q. So despite that general knowledge, despite the fact that they know, there are workers who still do not wear the masks that are available to them, is that right?

20 A. Yes, there are. But the situation is a little more complicated than a worker who is sawing at a pipe full of asbestos, and not wearing a mask. I would say that in situations where a worker is actually removing asbestos in most situations, although I have seen instances where the workers do not wear protection, most workers do.

25 But there are other situations, in maintenance especially, where a worker can inadvertently become exposed to asbestos because a piece of equipment that he is working on might...a tool or something might break a piece of insulation off, of the insulation around that area is broken so badly that it is falling off. The worker has nothing to do with handling or removing asbestos, but the exposure is still there.

30 Q. I can understand that there may be workers who inadvertently are exposed to asbestos. I am, frankly though, more interested in those...or if there are any, and that's really

5 Q. (cont'd.) what I'm trying to find out...are there workers who will go into a part of the workplace where they are likely to be exposed to asbestos, knowing that they are likely to be exposed to asbestos, and yet not wear the masks that are available?

A. Yes, there are workers like that.

10 Q. And you also referred us to the fact that when you...I think you said when you did your audit, I hope I'm not mistaken as to when this was...you saw that there were pieces or chunks, I'm not sure, of asbestos in the garbage in its dry form, not wetted down by the approved procedure. Do you recall saying that?

A. Yes.

15 Q. Would I be right in saying that it would appear that...well, would I be right in saying that it's possible that that asbestos found its way into that inappropriate situation in that it was placed there by workers who again, in placing it there, would still have known of the dangers of exposure to asbestos?

20 A. You mean workers that knew of the hazards?

Q. Yes.

A. Yes, that's possible. I can't see how else that asbestos would have gotten into that garbage can. I don't think management would have put it there.

25 Q. When you made those points originally, as I understood your evidence, you were attempting to make the point that you felt this was...and I may be putting words in your mouth here, so if I've got it wrong, please tell me...that you were attempting to make the point that there was a deficiency in management in that they were not enforcing those procedures - that is in the context of the two examples I have used - a procedure to force people to wear masks and a procedure to see that the

30

Q. (cont'd.) proper procedures with respect to the disposition of asbestos were followed?

5 A. Yes, there is a deficiency. I think there is a deficiency in management, and there perhaps is a deficiency in regulation. There is no law that says that people have to wear masks.

10 Q. Can you agree with me, though, that there is also seemingly something deficient or irresponsible or ill-considered in the action of the worker who, knowing of the danger and knowing of the procedures, nonetheless refuses to wear a mask or doesn't...to put it more fairly...doesn't take the opportunity to wear a mask and follows an inappropriate procedure with respect to the disposition of asbestos?

15 A. I can agree with that. There are no saints in workers or management. Both sides have...

Q. I appreciate your candor and I want to explain to you what I think that leads me to. You, in the course of your evidence, twice referred to the evidence that was given here by Mr. Sass. Do you recall referring to him?

20 A. Yes.

Q. And I think you said, to use your words, that you would prefer to see something like they have in Saskatchewan, because it accords more influence...again to coin your word...more influence to the worker.

25 Now, as I understood Mr. Sass's evidence, the fundamental assumption from which he works is that the person who is best equipped to deal with occupational health and safety problems in the workplace is the worker, because he is the one who is confronted on a daily basis with the problems.

30 Now, I suppose the Commission will have to interpret the evidence for itself and they may disagree with my understanding of it, but assuming for the moment that that's correct,

5 Q. (cont'd.) and since we have agreed that
there...again to use your phrase...are no saints in all of this,
that there may be deficiencies in the actions of the workers as
there may well be in management, could we agree that it may not
be, as Mr. Sass suggests, the best to overbalance the influence,
again to use your word, in this field in the hands of the worker,
and that what we may well be looking for is a more balanced
10 approach with management having a role, and the worker having a
role, and the ministry having a role...to quote one of the
reports that have been heard...I shouldn't say to quote, but to
refer to the conceptual framework for this that is put on by
it by, I think, Professor Doern, it's that you have management,
labour and the ministry as a referee in the middle.

15 Now, given what you said about workers and the
lack of saints, and given the thrust, or at least what I take to
be the thrust of Mr. Sass's evidence, would you agree with me
that there may well be an argument for a more balanced approach
to all of this, as outlined in the present Occupational Health
and Safety Act?

20 A. No. I don't know. I think that there is
an imbalance right now, and the imbalance is tipped heavily in
the favor of management. I think that what Mr. Sass was, if
I understood him correctly, was proposing or was advocating
with his whole philosophical approach to labour relations, was
25 that because the workers are directly involved in the hazards
in the workplace, and because traditionally management has been
very authoritarian and the workers have, in effect, just been
subjected to all that authority, that by giving the workers powers
under and Occupational Health and Safety Act, the workers would
eventually...there would be a natural balance established after
30 the workers began to exercise their rights under the Act.

Q. I don't want to prolong this with you, but let

Q. (cont'd.) me just ask you one further question and I think I can move on.

5 Do you say that there is an imbalance in the favor of management under the present legislation, despite the fact, as we agreed earlier, that at least the educated workers such as yourself can see that there is no reason for the fear of intimidation that was talked about earlier, because other than that, I'm a little hard pressed to see where the imbalance comes from, frankly.

10 A. I think the imbalance is the fact that under the present legislation, aside from the right to refuse unsafe work, any other input into the environment in the workplace is strictly on a recommendation type of basis.

15 Q. Okay. That's fair enough.

Now, I want to, if we can, move on to something else.

The audit that you did, when...do you know the date of the fire that was referred to?

20 A. I don't recall. It was in March, I believe, some time.

Q. Do you remember if it was near the beginning of March, or near the end of March?

A. I have two other people that are here from the station.

25 Do you remember, Davie?

I can't remember, no.

Q. Would it be reasonable to say that it took at least two months, assuming it was near the end of March, it took approximately two months assuming it was the end of March, before this audit was done?

30 A. Yes, that's a reasonable assumption.

Q. Now, I'm going to ask you a question and ask

5 Q. (cont'd.) you to be as honest as I'm sure you
have been in every other question I've asked to this point,
because I have no way of testing it. It's just something that
I find sort of interesting that the date of this audit, to the
best of my recollection, is very close to the time when this
Commission set the dates for the various witnesses that were to
appear before it, and what I'm curious to know is, whether or
not you can tell me if this audit was done in any sense,
10 whether there was...whether the decision to do this audit at
the particular time it was done in any sense was decided upon
because you were going to come here and give evidence and you
wanted to have this audit to present before this Commission?

15 A. No, no. The audit was arranged by the
chairman of the health and safety committee, and it was, as
pointed out in the minutes of the health and safety committee
meetings...the minutes are prepared by management and
sanctioned by the chairman...

20 Q. I accept what you say, without reservation.
The coincidence was obvious to me and I wanted to...

A. I didn't realize that that was the time that
the hearing dates were set up.

25 Q. Now, there was one other thing that you have
referred to a couple of times, and I can't think how to go about
it.

Can we agree that it often happens that labour
and management relations are adversarial in nature? I think
you have referred to that a couple of times.

A. Yes, yes.

30 Q. And can we agree that for the internal
responsibility system to work, or more particularly for the
health and safety committees to work, as a practical matter
the labour representatives and the employer representatives would

Q. (cont'd.) have to co-operate with each other?

5 A. I would imagine some co-operation...just like the Soviet Union and Russia (sic), they both have the bomb. They have to co-operate too, to balance the...is that what you are getting at?

Q. No, that's not what I'm getting at at all.

10 What I'm suggesting is that there is going to have to be, on both sides...and I don't want you for one minute to think I'm pointing this particularly at the labour side, because I certainly don't intend to...there is going to have to be on both sides, management and labour, a fundamental adjustment in the nature of the relationship insofar as it applies to their working together in health and safety committees.

15 A. Yes, I would agree with you there. I think that attitudes have to change on both sides, on both sides.

20 Q. Can you indicate to me, since you have...and again, I can't test your answer any way so I'm asking you to be as honest, again, as I'm sure you have been to this point...can you tell me when you talk about the reservations you have as to the functioning of the health and safety committee at the Hearne Generating Plant, can any of those reservations be accounted for by the fact that we are still in an embryonic stage, and that we are still fighting...or we, I talk as if I'm directly involved...but that you who are directly involved are still fighting with the nature of the relationship as between yourselves, labour, and the management members?

25 And what falls out of that, of course, is that as thing evolves, it will evolve to work without your reservations?

A. I would hope so. I would hope so. That would be my sincere hope.

30 Q. Do you see that as a possibility?

A. It's hard to say. Like I mentioned, things

5 A. (cont'd.) do get pretty adversarial, and even collective bargaining breaks down. I don't know if it's due to this, but I would imagine it has an influence. So it's difficult to say which approach is better to achieve an end to the means - either an adversarial approach with both parties being on guard all the time, or a co-operative approach.

10 I think a co-operative approach would be more harmonious.

15 Q. Sorry. I think you've taken me back three or four questions ago with that answer, and I hope that I can move on to something else. Let me just try it again.

20 Are you suggesting that you still perceive the possibility that the manner of operating health and safety committees may be the adversarial mode? That may be the way to make them work?

25 A. Well, I think that is probably closer to the approach that we are trying at the present time.

30 Q. That's you as a labour representative?

A. Yes.

35 Q. Well, might I suggest to you, and I thought you had agreed with me on this earlier, and if you didn't, please tell me now...do you perceive that there is going to have to be, for these committees to work, a fundamental change in that approach, and if you have reservations, is it possible that those reservations are caused by the adversarial approach that you have just said you are taking now, and should you not, in order to make it work if that's right, reconsider your approach and move to something more co-operative?

40 A. That's a big question.

45 Q. Well, I think it's a very important question, and I don't mean to suggest it's anything else. I think it's absolutely fundamental.

A. I think there is an adversarial attitude, if that is part of your question.

5 I think it would be desirable for the attitude to change in order for more constructive operation of the health and safety committee, yes.

10 Q. And you said that you, that the labour...I think you said that you on the labour side have taken a rather adversarial approach. I take it from that that you are conceding that it may be worthwhile considering some other approach, as in a more co-operative approach?

15 A. Well, okay, let me go back a little bit further into my brief. I am sure that after I presented what we, the workers, felt, the concerns regarding asbestos, how can you not expect an adversarial relationship to develop after you realize that there are things going on that shouldn't be going on, or things aren't all above board?

20 Q. Well, there are a couple of things that I thought we had agreed to, that covered that. The first is, again to quote you, that nobody is a saint in this, and secondly, I concede that it's a very early...or I'm asking you whether you don't agree with me that it's very early in the development of this process, and that what we are going to have to see is an evolution?

A. Yes, I would hope to see an evolution.

25 Q. Fair enough. And as part of that evolution, the union, as presumably management, will have to move to a more co-operative footing?

A. Yes. I don't know, they may need a referee.

Q. Well, as Professor Doern says, they seem to have one in the ministry, so that seems to be provided for.

30 Okay, I...

DR. DUPRE: Just before you leave that, counsel,

5 DR. DUPRE: (cont'd.) because I have been interested in your line of questioning, just before we leave this whole area in terms of the adversarial climate of labour/management relations, which you know may well be the fallout of some things that you've been going through, I take it, of course, from your brief that one of the things you have very much been going through has to do with the kind of handling which some of your brothers report the WCB is extending to their clients.

10 Now, I guess that the question that is on my mind, pursuing the line that Mr. Lederer has been asking, is simply this: To what extent have perceived problems vis a vis the WCB, the Workmen's Compensation Board, contributed to an adversarial relationship between management and labour that is not, you know, something that is directly linked to the WCB
15 problem, but in that the WCB problems, as you have perceived them, create an environment of anger, to what extent does the WCB issue become enmeshed or embroiled with the whole issue of labour/management confrontation or co-operation?

20 THE WITNESS: Regarding asbestos claims, I don't... it's difficult to say how much input the companies, or Ontario Hydro, has had regarding the refusal or the acceptance of claims.

25 It seems that there is an internal problem, in our opinion anyway, there seems to be an internal problem within the compensation board itself, or in the board of review, which we seem to have had, at least superficially. We seem to have had co-operation from the company regarding claims on behalf of people with industrial disease. I can't say that they have shown overzealousness in acting on behalf of the workers, but at the same time I can't see that they would have hampered the...

30 DR. DUPRE: So the short of it, then, would be that insofar as there have been difficulties which you document vis a vis the WCB, you wouldn't say that these difficulties have

5 DR. DUPRE: (cont'd.) had any fallout in terms of the climate of labour/management relations, to the extent that it has been somewhat more adversarial than co-operative? It's unrelated to that WCB...

10 THE WITNESS: Not as far as industrial diseases go. As far as actual physical injuries to employees, I think we have had confrontations with management regarding the return of workers on light duties and the denial of benefits in one situation, but these had nothing to do with asbestos-related diseases.

15 DR. UFFEN: I have a question relative to the WCB. Can I put it in here now?

MR. LEDERER: Oh, absolutely.

20 DR. UFFEN: Well, one of the things that interested me as I read this submission seventy-six, a lot of time is devoted to case histories, and you were making the point in here about the frustration, I believe is a reasonable description, for the long times involved.

25 So I read it rather carefully, because we are trying to understand the workings of the WCB.

30 Could you set me clear on this, however. On page eleven you make a fairly strong statement. However, noting the date of the letter written by the station personnel officer, which is on the front page of appendix two, it would appear that the claim for compensation benefits was only initiated by the employer at the end of September, 1980, which is several months.

35 But back on page seven, it says in the third paragraph: "On June 10th, 1980, Dr. M.C. Wills, Ontario Hydro staff physician, came to see me at my home. He informed me that a claim was being filed on my behalf."

In June, not September. Do you have any evidence one way or another

DR. UFFEN: (cont'd.) that the claim was not initiated in June?

5 THE WITNESS: No, we don't have any evidence either way. The only thing I can surmise was that Dr. Wills is not, or anybody in the medical services department, does not file a claim on behalf of an employee. The claim is filed by station management, which would be either the station manager or the personnel officer at the plant. The medical services department, for various
10 explanations, I think even at this Commission, on the 15th of June, they spoke on it, and lately, last week, I heard Dr. Wills again at a safety conference explaining how the claims work.

When he assesses a person, he recommends, then, to the employer...they seem to want to remove themselves from the
15 employer, even though they are part of Ontario Hydro and we consider them management. The medical services department seems to want to take out a third position, like, between the employer and the union, and they recommend to the employer that a certain claim be filed on behalf of an injured worker.

Now, by law, by the Act, the Workmen's Compensation
20 Act, the employer has to notify the employee that a claim has been filed, and he quotes this subsection of the Act, and that is a standard memo-type letter that is just signed by the personnel officer and dated, and sent to the employee, that a claim has been filed on his behalf.

25 That letter was dated September, 1980.

DR. UFFEN: This is the point. If we are looking into where the alleged delays occurred, it doesn't say a Workmen's Compensation Board claim was initiated on September 3rd. It says, "has been initiated", which is in the past.

30 So the conclusion that I would draw as an outsider is that it apparently was initiated some time between June 10th and June 30th. But you make the assumption that it's closer to

DR. UFFEN: (cont'd.) September 30th, than June 30th.

Now, the importance of tying this down is to find out where did the delay occur. Was it with the Workmen's Compensation Board side of the house, or was it with the Ontario Hydro side of the house?

THE WITNESS: Well, in appendix two, the first page of appendix two, is the letter that has been referred to.

DR. UFFEN: Yes. And it says, "A Workmen's Compensation Board claim has been initiated by Ontario Hydro's health service department, on Mr. Ray's behalf."

Now, Dr. Wills is in...

THE WITNESS: In health services.

DR. UFFEN: ...Ontario Hydro's health service department...

THE WITNESS: Right.

DR. UFFEN: ...and he told the patient on June 10th, that a claim was being filed.

That would seem to me that the difficulty lay, if any, with the Workmen's Compensation Board procedures, not with Ontario Hydro.

THE WITNESS: I can't...it's difficult to say where the holdups were. I believe some of the holdups...in fact, the mere fact that Dr. Wills took three months to actually begin looking into Doug Ray's lung problem shows that there was a delay.

Usually if a person is off work for five days, a note goes out to his house and he is requested to go see his doctor and the doctor has to fill out a form and send it back to medical services, explaining why this person is away more than five days.

So therefore, because it took three months for this doctor to get involved and personally go down and see Mr. Ray,

THE WITNESS: (cont'd.) I would say there was a delay on behalf of medical services, at the initial start.

DR. UFFEN: To commence.

One final question. Does the employee have access to any documentation that tells him the date on which an application has been made to the Workmen's Compensation Board on his behalf?

THE WITNESS: The union receives WCB seven form, and I don't know if the...Jim Schetakis, the president of local... does the worker receive a copy of that?

MR. SCHETAKIS: No, just the union.

THE WITNESS: The union receives it, and we usually notify the worker.

DR. UFFEN: Then you would have in the union files...

THE WITNESS: We have a file of WCB...

DR. UFFEN: ...the exact date on which the application was filed?

THE WITNESS: Yes, yes.

DR. UFFEN: Well, that would certainly answer my question about when, between June 10th and September 30th, it happened.

THE WITNESS: Have you got...Dave Bishop, have you got the file on Doug Ray?

MR. BISHOP: Yes, I do.

THE WITNESS: Have you got the WCB seven form? That would answer the question.

MR. BISHOP I've got a six S form, but that's...it was filed on the 30th of June, 1980.

THE WITNESS: Is that on the WCB seven?

MR. BISHOP: No, it's a six S. I don't have the CB seven, WCB seven.

DR. UFFEN: That's two weeks after the doctor saw the patient.

5 THE WITNESS: Saw the patient, yes.

DR. UFFEN: Thanks.

DR. DUPRE: Mr. Lederer?

MR. LEDERER: Thank you.

10 MR. LEDERER: Q. I'm not sure if this is important and I just want to ask you the question so I can think about it later. It arises out of what Dr. Uffen has just been asking you, and that is, you have used particular case studies in that brief, and you have mentioned one person's name now before this Commission.

Does he know that you have referred to him that way in this brief?

15 THE WITNESS: A. Yes, he does.

Q. Did he consent to it?

A. Yes, he did.

20 Q. Is that the case with anybody else you have mentioned?

A. Yes.

Q. Okay.

25 I'm not sure if this refers to one of your case histories or not. You indicated in the course of your evidence that there was a situation where x-rays were taken of a particular worker and then there was a year's delay before he received notification or four...four year's delay?

A. Four years.

Q. Four year's delay, and over that four year period he was tracked, or his health was tracked by Ontario Hydro through its medical surveillance program. Have I got that...?

30 A. I'm not exactly sure if it was monitored through the Ontario Hydro medical services board, through the occupational chest diseases clinic, and I'm not sure how those

A. (cont'd.) two organizations co-operate. It's difficult.

5 Q. Is that one of your case histories, or is that another case entirely?

A. That is another...oh, hold on. There are two with four years. There is one regarding Mr. Wilkes...

Q. Yes.

10 A. ...who was notified about four years after an abnormality had been discovered, and that is mentioned in the brief. And there is another one, which I am not at liberty to disclose the person's name, but...

Q. Sorry. Why are you not at liberty to disclose it? Did you ask and he...

15 A. Because I have not received his consent to...

Q. I see. The question that I wanted to ask you is whether or not we could get more detail about that case, because it's obviously an interesting problem for this Commission.

Have you made any effort to get his consent?

20 A. We have...he has approached the union and has asked us to launch an appeal on his claim refusal, and we are in the process of doing that right now.

Q. I'm sorry. Is that the reason why you can't divulge it to the Commission, because there is an appeal ongoing?

A. I just have not received official permission from this person to disclose his name or his case.

25 Q. What I'm working up to is, is there any reason why you couldn't obtain that permission now?

A. Yes, I probably...if the person was co-operative I don't see any reason why not.

30 Q. If you were to get that permission, could you disclose it to the Commission, perhaps just by adding that case history to your brief?

A. Yes. It all depends on this person.

5 MR. STARKMAN: Mr. Chairman, I note that the
counsel for the Workmen's Compensation Board and the government
has requested that someone provide information as to a specific
case history, to the Commission.

10 Now, I would also note that in two or three weeks
we will be examining the witnesses from the Workmen's Compensation
Board. I represent perhaps two hundred or more people who feel
somewhat more or less aggrieved by the Workmen's Compensation Board
and the government of Ontario. If we are going to get into this,
and I assume that we are because counsel has opened it up, we
could be here for a very long time while this Commission examines
into the facts and circumstances surrounding any number of
15 claimants at the Workmen's Compensation Board.

MR. LEDERER: Well, I'm quite happy...I'm not..
first of all let me say that I'm quite happy...

20 DR. DUPRE: Dr. Uffen is whispering to me
something that I can confirm is going through my mind, as to
the excellent quality of the point that you are making, Mr.
Starkman, but Mr. Lederer, as you are aware, we have an awful
lot of time for this summer committed, as is...

MR. LEDERER: Well, I'm quite happy to...if I
could just...I think it probably behooves me to state a position,
to be fair to Mr. Starkman, who raises the point.

25 First of all, let me say that if specific cases
are raised with respect to the witnesses from the Workmen's
Compensation Board, that will, as Mr. Starkman knows, create
a very serious problem simply because of the legislative scheme
under which that board functions.

30 My only reason for asking...and I've been careful
to ask that the consent be obtained...the only reason I'm asking
is because if in fact that consent can be obtained, if in fact

MR. LEDERER: (cont'd.) that information can come forward it would be of assistance.

5 I do not suggest there is anything wrong if the consent is not obtained, or that there is any negative connotation to be drawn from it, and if what is being suggested here is that I'm somehow opening up the box of the Workmen's Compensation Board, I would be happy to withdraw the question. I don't think it's that important.

10 It will become very important, frankly, because of the legislation of the Board.

DR. DUPRE: I might also add that legislation or no legislation, the other point that is very important where any reference to individual cases is concerned is whether this Commission indeed deems that such reference to individual cases is going to be helpful to us in terms of pursuing this policy...

15 MR. LEDERER: The case histories are there, and I just simply thought there would be some value in attempting to complete them, but I don't suggest that that's significant and I'm quite happy, if there is some objection, to simply withdraw the question.

20 MR. LEDERER: Q. I only have one other series of questions that I want to ask you, sir, and they'll be quite brief.

25 You were asked about whether or not in the course of the apprenticeship program you received any instructions with respect to asbestos as a safety hazard. Mr. McCombie asked you those questions...do you recall...and your answer was no?

THE WITNESS: A. No. Correct.

30 Q. In the course of that apprenticeship program, did you receive any instruction at all as to either health and/or safety in the workplace, of any type, in relation to anything, any danger?

5 A. Yes, some...welding safety, regarding the use of welding equipment and the dangers and safety hazards, rigging practices, safe rigging practices.

Q. Those would be, so far as I understand, safety items as opposed to health items?

A. Yes.

10 Q. Well, if you make that usual distinction - disease as opposed to a discrete accident in the workplace.

A. Yes.

Q. Do I take it from that that so far as you can recollect, you received no instruction as to health problems?

A. Health-related?

Q. Health-related difficulties?

15 A. No, I did not.

Q. Now, you've said...it's obvious from your evidence and I think you've said that you have learned now that there are these potential dangers in the workplace. Can you tell me what, if any, efforts you have made to obtain training for yourself and other workers in the workplace, with respect to these dangers?

20 A. Obtain training with respect to...?

Q. Health dangers.

25 A. I think that my mere involvement...on a personal basis, my involvement in the health and safety committee and my pursuit of this matter through the various means that I have pursued it through have been educational, and more eye-opening.

We have, like I mentioned, we are in the process of setting up a school on the Occupational Health and Safety Act.

As regards asbestos itself, do you mean?

30 Q. Well, I wasn't really restricting myself to that. I'm just curious to know whether you can tell me if any representative of the work force has approached management

Q. (cont'd.) with the idea of obtaining the training which you are obviously asserting was deficient?

5 A. Well, I was...I have just attended a health and safety conference of Ontario Hydro last week, and there are... there is some emphasis placed, being placed on training of the workers in respect to respiratory equipment and the whole hazard of asbestos in the workplace. That is one item that is of great concern to them, it seems, as of late.

10 Q. Sorry. Who is them? Hydro or the workers?

A. Hydro, Ontario Hydro. As of yet, though, just like this level two procedure in tab seven, they are all draft proposals. There is, I believe, one slide presentation now on the use of respiratory equipment and the effectiveness of this equipment in preventing exposure to dust.

15 That has been around for about a year now. Other than that, the whole program is still being developed from the company's side. I can't speak much for the company, just what they tell me, but..

20 Q. I'm a little bit confused, because I'm not sure that you directly answered the question. Let me see if I can ask you the question again and perhaps paraphrase what I think your answer was, and see if we can come to some agreement as to where this is going.

25 I am interested in knowing whether or not the work force has ever approached management and said, look, we need training in this area. And I think what you have told me is that there seems to be a changing attitude in Ontario Hydro, at least with respect to asbestos, and I don't think in fairness to you that you said anything more than that.

30 Am I right? Is there a changing attitude, and in any case has the work force or any representative of that work force, ever approached management to get the training that you believe

Q. (cont'd.) is necessary?

5 A. Okay. First of all, I think attitudes might be changing - at least Ontario Hydro says that they are changing. That remains to be seen.

10 As far as approaching management, the reverse has actually occurred. The company has had a conference last week, like I mentioned, a two-day conference of all the health and safety committee people in the thermal generations division, which is all the thermal plants...I think there are about eight of them...and members of both management and union were present at this conference, and one of the...management actually presented all the agenda items at the conference, aside from the workshops, and there were presentations on a new and improved approach to
15 handling asbestos, education programs to educate the workers on dealing with asbestos and using proper respiratory protection.

But these were just introduced to us as members of health and safety committees. They have not been implemented throughout the corporation as educational policies in each plant.

Q. Did anybody ask that they be so implemented?

20 A. I would imagine that, by the mere fact that health and safety committees met and Ontario Hydro explained this new approach, that they are bringing down this policy. We don't have to ask for it. They are giving it to us.

25 Q. So do I understand, then, that you haven't.. you can't tell us that you have asked for the training, but your perception is that as things are developing now, you are going to get the training?

A. Yes, yes.

MR. LEDERER: Fair enough. Thank you very much, sir.
Thank you, Mr. Chairman.

30 DR. DUPRE: Miss Jolley?

CROSS-EXAMINATION BY MISS JOLLEY

5 Q. I just want to pursue the internal responsibility system for one minute with you, and I'm just wondering, have you ever met with the Ministry of Labour as a health and safety committee member, when they came into the plant?

10 A. Yes. I met...actually I was not a member of the health and safety committee. I was a member of the union, a shop steward. I met with one inspector in the plant. I just casually spoke to him.

Then the only other time I met with the inspector was during this work refusal of May the 6th.

15 Q. I don't know whether you can answer this question, but do you know if the Ministry of Labour inspector ever explained to anyone on the health and safety committee exactly what they meant by the internal responsibility system, and how it was to operate in your plant particularly?

20 A. No, I can't say that I know that they did that. In fact, I sometimes wonder what the internal responsibility system is myself.

It seems to have different meanings.

Q. Are you familiar with Mr. Wilson's meaning of internal responsibility, that he described the other day to the Commission?

A. Yes, I am.

25 Q. Mr. Wilson's description is doing that which is required in health and safety from a social and human standpoint, voluntarily.

A. That's what Mr. Wilson...

Q. Said the other day.

A. ...said the other day. Yes.

30 Q. Had you understood that to be the internal responsibility system? At Hydro?

A. I never thought of it as philosophically as Mr. Wilson presented it.

5 Q. Could I ask you, have you ever accompanied an inspector on any of his inspections in the workplace, as your...in your capacity as a health and safety union representative on the committee?

10 A. No, just that one time when the inspector was around the plant. I bumped into him and I spoke to him briefly, at the job site.

Other than that, no, never.

Q. Are you aware when inspectors come into the plant? Are you made aware as a health and safety committee person?

15 A. The chairman is usually made aware. I am not the chairman of the health and safety committee.

I have asked to be informed when the inspector arrives, but as has happened the last few times, I have not been on site myself when the inspector came, and I only found out the inspector was there after he had been there.

20 Otherwise, the chairman is always informed...to my understanding...usually after the inspector arrives.

Q. Can you describe to me exactly how the inspector arrives? Does he meet with management first, and then meet with the union first, for consultation?

25 A. During the work refusal, the inspector arrived with management, so I would imagine he had arrived on site and then met with management briefly and then the health and safety chairman was called up to the office.

30 During inspection tours, I can't...I would imagine he probably approaches management first, and then the management people call the chairman of the health and safety committee.

DR. UFFEN: A small point there, but didn't you

5 DR. UFFEN: (cont'd.) say earlier on that in this particular case that you had asked the management to contact the...

THE WITNESS: During the work refusal, yes. We had...you mean, you are talking about the work refusal?

10 DR. UFFEN: The way it went...if you had asked management to contact the inspector in the Department of Labour, and the inspector came back and called in on management first, that wouldn't seem to me to be unreasonable.....if the request to appear came from them. Have I misunderstood?

15 THE WITNESS: When the inspector was called, both the chairman of the health and safety committee, who is a union person, and management were present, and management in fact called the inspector and then identified themselves as being management of Ontario Hydro at a certain plant, and then the phone was handed over to the chairman of the health and safety committee, who said that there was a problem and he was needed there.

20 Then when the inspector arrived, he was met...

DR. UFFEN: So the request was joint?

THE WITNESS: Yes, it was a joint request.

DR. UFFEN: Sorry.

25 MISS JOLLEY: Q. I think my question was more to the tours, because...I mean the perception has been from labour that companies are notified of the inspection, and I think that the immediate arrival and meeting with management first also perpetuates that kind of perception, perhaps.

30 DR. UFFEN: There is a point here that I would like to sort of get cleared up, if I may, and this is as good a time as any. I'll pose it as a little example, because I can't think of a better way to do it right now.

If an inspector shows up at a Hydro electric

DR. UFFEN: (cont'd.) generating station, do you think he should be able to roam around in there without the management knowing he is there?

MISS JOLLEY: The law says he can enter at any reasonable time.

DR. UFFEN: That's what the law says. What would happen if he got into some other kind of trouble? There are other kinds of dangers involved in roaming around in a generating station, or in a mine or any other...I'm wondering about who has... let me put it simpler...who has the key to the door in some places?

It has always troubled me as to how an inspector is actually going to walk in to a plant, even if the law says he is supposed to be able to.

Perhaps you would like to discuss that some other time, but in view of the time now, but it's one of the things that I have been pondering.

MISS JOLLEY: Q. May I come back to the tab seven from Mr. Wilson's submission, and you indicated that this was your first knowledge of tab seven the other day, when Mr. Wilson appeared at the Royal Commission?

THE WITNESS: A. Yes.

Q. Do you know...

A. In fact...well, let me...this was the first knowledge of this particular level two procedure. At our previous health and safety committee meetings there was a proposal put forward that the present procedure for handling asbestos, which is one page, that there be a paragraph removed from that procedure which dealt with distinguishing between whether a substance is or is not asbestos. We wanted it to just say that this procedure applies to all insulation, and we wanted to remove a paragraph.

At that particular time...I was not at that safety

5 A. (cont'd.) committee meeting...but the chairman was made aware that Ontario Hydro management was looking into a new procedure altogether, for handling asbestos.

But this level two procedure was not put forward to the health and safety committee, and management did not say 'this is the new procedure', or 'this is what we are looking at'.

10 The only time I became aware of this was when we came down to the Commission on the 15th of June.

10 Q. Do you know what the health and safety advisory committee is in Hydro?

A. I have never personally dealt with them. I have heard that there is such a committee. I think, from my understanding of Mr. Wilson, it is a management committee.

15 Q. However, he also said in his statement to the Royal Commission that: "in order to provide for employee participation into this committee, a policy has been written to provide for input from employees to the health and safety advisory committee, which is formerly called...", etc..."this allows employees to have input to corporate safety policies."

20 Were you familiar with that?

A. No, I was not. I have never felt that we have input into corporate safety policy.

25 Q. And at that time when they were describing that they were developing new directives, you weren't asked for input at that time?

A. No, no.

MISS JOLLEY: That's all the questions I have, thank you.

DR. DUPRE: Mr. Starkman?

MR. STARKMAN: Yes, I have a very few questions.

CROSS-EXAMINATION BY MR. STARKMAN

30 Q. With regard to this safety audit, the

5 Q. (cont'd.) practicalities of this audit...you did the audit and you gave it to management at a meeting of the health and safety committee?

A. Yes.

Q. And then...does the committee meet monthly?

A. Yes, usually.

10 Q. So I guess you would wait and at the next meeting management would respond to these...

A. Hopefully.

Q. The theory of it is that they would respond to these?

15 A. Yes, and usually it goes on and on and on. Through the minutes of the meetings you can see items that have been asked about three or four months ago.

Q. Now, would there be anything to stop you from just calling the inspector?

Take the first one. It says scrap metal on top of the boiler should be cleaned up and thrown in the garbage.

20 Could you just call the inspector and say there's an unsafe, there's a hazard here?

25 A. I suppose...I have never seen an inspector be that strict about any of his inspections. In fact, whenever he does come in, he seems to list a couple of pages of defects and something like this he would probably never see, because he would never go up that high.

DR. UFFEN: Why wouldn't you just clean it up? Scrap metal on top of boiler, why wouldn't they take the scrap metal off the top of the boiler and get rid of it?

MR. STARKMAN: Well, if you are asking me...

DR. UFFEN: No, we'll ask the witness.

30 THE WITNESS: I would say that's what should be done, but we as member, union members, of the health and safety

THE WITNESS: (cont'd.) committee do not delegate
work. It's up to management to delegate somebody to clean up
that condition.

We would have never finished our inspection if
we had started repairing these defects as we went along. Not
even the first page.

MR. STARKMAN: I think they are entitled to time
off for the inspections, but not time off to correct the things
that are noted as in need of correction.

DR. UFFEN: At this time of night, I hope you
don't mind a little levity.

MR. STARKMAN: Q. When you do call an inspector
and it's not a refusal to work, what is the response time? Are
you aware of that?

THE WITNESS: A. I don't believe an inspector has
ever been called, aside from this past refusal. Other than that,
they have always appeared on their own accord.

The response time for this work refusal was
excellent. It was within one hour.

MR. STARKMAN: Those are my questions. Thank you.

DR. DUPRE: Dr. Uffen, any further questions?
I have no further questions.

May I again thank you, Mr. Girdouskas, for having
been so patient, but as you can see, even the lateness of the
hour does not cool our ardour in terms of asking questions.
Thank you very much indeed.

The Commission rise, to reconvene at nine a.m.,
which is approximately thirteen hours and twenty-five minutes from
now.

THE INQUIRY ADJOURNED

THE FOREGOING WAS PREPARED
FROM THE TAPED RECORDINGS
OF THE INQUIRY PROCEEDINGS

Edwina Macht
EDWINA MACHT

